

SECOND REGULAR SESSION

# HOUSE BILL NO. 1531

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HOPPE.

Read 1<sup>st</sup> time January 17, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3602L.011

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### AN ACT

To repeal sections 190.044, 190.050, 190.092, 190.094, 190.100, 190.105, 190.108, 190.109, 190.120, 190.142, 190.160, 190.165, 190.171, 190.175, 190.185, 190.196, 197.300, 197.305, 197.310, 197.311, 197.312, 197.314, 197.315, 197.316, 197.317, 197.318, 197.320, 197.325, 197.326, 197.327, 197.330, 197.335, 197.340, 197.345, 197.355, 197.357, 197.366, 197.367, 197.705, 198.530, 198.531, 208.169, 321.130, 321.190, and 321.703, RSMo, and to enact in lieu thereof thirty-three new sections relating to the provision of emergency services, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 190.044, 190.050, 190.092, 190.094, 190.100, 190.105, 190.108, 190.109, 190.120, 190.142, 190.160, 190.165, 190.171, 190.175, 190.185, 190.196, 197.300, 197.305, 197.310, 197.311, 197.312, 197.314, 197.315, 197.316, 197.317, 197.318, 197.320, 197.325, 197.326, 197.327, 197.330, 197.335, 197.340, 197.345, 197.355, 197.357, 197.366, 197.367, 197.705, 198.530, 198.531, 208.169, 321.130, 321.190, and 321.703, RSMo, are repealed and thirty-three new sections enacted in lieu thereof, to be known as sections 190.050, 190.051, 190.053, 190.054, 190.092, 190.094, 190.100, 190.105, 190.108, 190.109, 190.111, 190.120, 190.142, 190.160, 190.165, 190.171, 190.172, 190.175, 190.185, 190.196, 190.248, 190.525, 190.528, 190.531, 190.534, 190.537, 197.705, 198.530, 198.531, 208.169, 321.130, 321.190, and 321.703, to read as follows:

190.050. 1. After the ambulance district has been declared organized, the declaring county commission, except in counties of the second class having more than one hundred five thousand inhabitants located adjacent to a county of the first class having a charter form of

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

4 government which has a population of over nine hundred thousand inhabitants, shall divide the  
5 district into six election districts as equal in population as possible, and shall by lot number the  
6 districts from one to six inclusive. The county commission shall cause an election to be held in  
7 the ambulance district within ninety days after the order establishing the ambulance district to  
8 elect ambulance district directors. Each voter shall vote for one director from the ambulance  
9 election district in which the voter resides. The directors elected from districts one and four shall  
10 serve for a term of one year, the directors elected from districts two and five shall serve for a  
11 term of two years, and the directors from districts three and six shall serve for a term of three  
12 years; thereafter, the terms of all directors shall be three years. All directors shall serve the term  
13 to which they were elected or appointed, and until their successors are elected and qualified,  
14 except in cases of resignation or disqualification. The county commission shall reapportion the  
15 ambulance districts within sixty days after the population of the county is reported to the  
16 governor for each decennial census of the United States. Notwithstanding any other provision  
17 of law, if the number of candidates for the office of director is no greater than the number of  
18 directors to be elected, no election shall be held, and the candidates shall assume the  
19 responsibilities of their offices at the same time and in the same manner as if they have been  
20 elected.

21       2. In all counties of the second class having more than one hundred five thousand  
22 inhabitants located adjacent to a county of the first class having a charter form of government  
23 which has a population of over nine hundred thousand inhabitants, the voters shall vote for six  
24 directors elected at large from within the district for a term of three years. Those directors  
25 holding office in any district in such a county on August 13, 1976, shall continue to hold office  
26 until the expiration of their terms, and their successors shall be elected from the district at large  
27 for a term of three years. In any district formed in such counties after August 13, 1976, the  
28 governing body of the county shall cause an election to be held in that district within ninety days  
29 after the order establishing the ambulance district to elect ambulance district directors. Each  
30 voter shall vote for six directors. The two candidates receiving the highest number of votes at  
31 such election shall be elected for a term of three years, the two candidates receiving the third and  
32 fourth highest number of votes shall be elected for a term of two years, the two candidates  
33 receiving the fifth and sixth highest number of votes shall be elected for a term of one year;  
34 thereafter, the term of all directors shall be three years.

35       3. A candidate for director of the ambulance district shall, at the time of filing, be a  
36 citizen of the United States, a qualified voter of the election district as provided in subsection 1  
37 of this section, a resident of the [state for one year] **district for two years** next preceding the  
38 election, and shall be at least [twenty-one] **twenty-four** years of age. In an established district  
39 which is located within the jurisdiction of more than one election authority, the candidate shall

40 file [his] a declaration of candidacy with the secretary of the board. In all other districts, a  
41 candidate shall file [his] a declaration of candidacy with the county clerk of the county in which  
42 [he] **the candidate** resides. A candidate shall file a statement under oath that [he] **the candidate**  
43 possesses the required qualifications. No candidate's name shall be printed on any official ballot  
44 unless the candidate has filed a written declaration of candidacy pursuant to subsection 5 of  
45 section 115.127, RSMo. If the time between the county commission's call for a special election  
46 and the date of the election is not sufficient to allow compliance with subsection 5 of section  
47 115.127, RSMo, the county commission shall, at the time it calls the special election, set the  
48 closing date for filing declarations of candidacy.

**190.051. 1. Notwithstanding the provisions of sections 190.050 and 190.052 to the  
2 contrary, upon a motion by the board of directors in districts where there are six-member  
3 boards, and upon approval by the voters in the district, the number of directors may be  
4 increased to seven with one board member running district wide, or decreased to five or  
5 three board members. The ballot to be used for the approval of the voters to increase or  
6 decrease the number of members on the board of directors of the ambulance district shall  
7 be substantially in the following form:**

8       **Shall the number of members of the board of directors of the ..... (Insert name  
9 of district) Ambulance District be (increased to seven members/decreased to five  
10 members/decreased to three members)?**

11                       ☐ **YES**                                       ☐ **NO**

12       **2. If a majority of the voters voting on a proposition to increase the number of  
13 board members to seven vote in favor of the proposition, then at the next election of board  
14 members after the voters vote to increase the number of directors, the voters shall select  
15 one person to serve in addition to the existing six directors as the member who shall run  
16 district wide.**

17       **3. If a majority of the voters voting on a proposition to decrease the number of  
18 board members vote in favor of the proposition, then the county clerk shall redraw the  
19 district into the resulting number of subdistricts with equal population bases and hold  
20 elections by subdistricts pursuant to section 190.050. Thereafter, members of the board  
21 shall be elected to serve terms of three years and until their successors are duly elected and  
22 qualified.**

23       **4. Members of the board of directors in office on the date of an election pursuant  
24 to this section to increase or decrease the number of members of the board of directors  
25 shall serve the term to which they were elected or appointed and until their successors are  
26 elected and qualified.**

**190.053. 1. Each member of an ambulance district board shall be subject to recall**

2 from office by the registered voters of the subdistrict from which the member was elected.  
3 Proceedings may be commenced for the recall of any ambulance district board member by  
4 the filing of a notice of intention to circulate a recall petition pursuant to this section and  
5 section 190.054.

6 2. Proceedings may not be commenced against any member if, at the time of  
7 commencement, that member:

8 (1) Has not held office during the member's current term for a period of more than  
9 one hundred eighty days; or

10 (2) Has one hundred eighty days or less remaining in such term; or

11 (3) Has had a recall election determined in the member's favor within the current  
12 term of office.

13 3. The notice of intention to circulate a recall petition shall be served personally,  
14 or by certified mail, on the board member sought to be recalled. A copy thereof shall be  
15 filed, along with an affidavit of the time and manner of service, with the election authority,  
16 as defined in chapter 115, RSMo. A separate notice shall be filed for each board member  
17 sought to be recalled and shall contain all of the following:

18 (1) The name of the board member sought to be recalled;

19 (2) A statement, not exceeding two hundred words in length, of the reasons for the  
20 proposed recall;

21 (3) The names and business or residence addresses of at least one and not more  
22 than five proponents of the recall.

23 4. Within seven days after the filing of the notice of intention, the board member  
24 may file with the election authority a statement, not exceeding two hundred words in  
25 length, in answer to the statement of the proponents. If an answer is filed, the board  
26 member shall also serve a copy of it, personally or by certified mail, on one of the  
27 proponents named in the notice of intention. The statement and answer are intended solely  
28 for the information of the voters. No insufficiency in form or substance of such statements  
29 shall affect the validity of the election proceedings.

30 5. Before any signature may be affixed to a recall petition, the petition must bear  
31 all of the following:

32 (1) A request that an election be called to elect a successor to the board member;

33 (2) A copy of the notice of intention, including the statement of grounds for recall;

34 (3) The answer of the board member sought to be recalled, if any. If the board  
35 member has not answered, the petition shall so state; and

36 (4) A place for each signer to affix each signer's signature, printed name, and  
37 residence address, including city or unincorporated community.

38           **6. Each section of the petition, when submitted to the election authority, shall have**  
39 **attached to it an affidavit signed by the circulation of that section, setting forth all of the**  
40 **following:**

41           **(1) The printed name of the affiant;**

42           **(2) The residence address of the affiant;**

43           **(3) That the affiant circulated that section and saw the appended signatures be**  
44 **written;**

45           **(4) That according to the best information and belief of the affiant, each signature**  
46 **is the genuine signature of the person whose name it purports to be;**

47           **(5) That the affiant is a registered voter of the subdistrict of the board member**  
48 **sought to be recalled; and**

49           **(6) The dates between which all the signatures to the petition were obtained.**

50           **7. A recall petition shall be filed with the election authority not more than one**  
51 **hundred eighty days after the filing of the notice of intention.**

52           **8. The number of qualified signatures required in order to recall a board member**  
53 **shall be equal in number to at least twenty-five percent of the number of voters who voted**  
54 **in the most recent gubernatorial election in that subdistrict.**

55           **9. Within twenty days from the filing of the recall petition the election authority**  
56 **shall determine whether or not the petition was signed by the required number of qualified**  
57 **signatures. The election authority shall file with the petition a certificate showing the**  
58 **results of the examination. The authority shall give the proponents a copy of the certificate**  
59 **upon their request.**

60           **10. If the election authority certifies the petition to be insufficient, it may be**  
61 **supplemented within ten days of the date of certificate by filing additional petition sections**  
62 **containing all of the information required by this section. Within ten days after the**  
63 **supplemental copies are filed, the election authority shall file with it a certificate stating**  
64 **whether or not the petition as supplemented is sufficient.**

65           **11. If the certificate shows that the petition as supplemented is insufficient, no**  
66 **action shall be taken on it; however, the petition shall remain on file.**

**190.054. 1. If the election authority finds the signatures on the petition described**  
2 **in section 190.053, together with the supplementary petition sections, if any, to be**  
3 **sufficient, it shall submit its certificate as to the sufficiency of the petition to the ambulance**  
4 **district board prior to its next meeting. The certificate shall contain:**

5           **(1) The name of the member whose recall is sought;**

6           **(2) The number of signatures required by law;**

7           **(3) The total number of signatures on the petition; and**

8           **(4) The number of valid signatures on the petition.**

9           **2. Following the ambulance district board's receipt of the certificate, the election**  
10 **authority shall order an election to be held on one of the election days specified in section**  
11 **115.123, RSMo. The election shall be held not less than forty-five days nor more than one**  
12 **hundred twenty days after the ambulance district board receives the petition. Nominations**  
13 **pursuant to this section shall be made by filing a statement of candidacy with the election**  
14 **authority.**

15           **3. At any time prior to forty-two days before the election, the member sought to be**  
16 **recalled may offer the member's resignation. If a resignation is offered, the recall question**  
17 **shall be removed from the ballot and the office declared vacant. The member who resigned**  
18 **may not fill the vacancy, which shall be filled as provided by law.**

19           **4. The provisions of chapter 115, RSMo, governing the conduct of elections shall**  
20 **apply, where appropriate, to recall elections held pursuant to this section. The costs of the**  
21 **election shall be paid as provided in chapter 115, RSMo.**

190.092. 1. [For purposes of this section, "first responder" shall be defined as a person  
2 who has successfully completed an emergency first response course meeting or exceeding the  
3 national curriculum of the United States Department of Transportation and any modifications  
4 to such curricula specified by the department through rules adopted pursuant to sections 190.001  
5 to 190.180 and who provides emergency medical care through employment by, or in association  
6 with, an emergency medical response agency. Any rule or portion of a rule, as that term is  
7 defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall  
8 become effective only if the agency has fully complied with all of the requirements of chapter  
9 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28,  
10 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and  
11 repealed as of August 28, 1998, however nothing in this section shall be interpreted to repeal or  
12 affect the validity of any rule adopted and promulgated prior to August 28, 1998. If the  
13 provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and  
14 if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to  
15 review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held  
16 unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed  
17 and contained in the order of rulemaking shall be invalid and void, except that nothing in this  
18 section shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

19           **2. Any county, municipality or fire protection district may establish a program to allow**  
20 **the use of automated external defibrillators by any person properly qualified who follows**  
21 **medical protocol for use of the device or member of a fire, police, ambulance service, emergency**  
22 **medical response agency or first responder agency provided that such person has completed a**

23 course certified by the American Red Cross or American Heart Association that includes  
24 cardiopulmonary resuscitation training and demonstrated proficiency in the use of such  
25 automated external defibrillators.

26 3.] A person or entity who acquires an automated external defibrillator shall ensure that:

27 (1) Expected defibrillator users receive training by the American Red Cross or American  
28 Heart Association in cardiopulmonary resuscitation and the use of automated external  
29 defibrillators, or an equivalent nationally recognized course in defibrillator use and  
30 cardiopulmonary resuscitation;

31 (2) The defibrillator is maintained and tested according to the manufacturer's operational  
32 guidelines;

33 (3) Any person who renders emergency care or treatment on a person in cardiac arrest  
34 by using an automated external defibrillator activates the emergency medical services system as  
35 soon as possible; and

36 (4) Any person **or entity** that owns an automated external defibrillator that is for use  
37 outside of a health care facility shall have a physician [provide medical protocol for the use of  
38 the device] **review and approve the clinical protocol for the use of the defibrillator, review**  
39 **and advise regarding the training and skill maintenance of the intended users of the**  
40 **defibrillator and assure proper review of all situations when the defibrillator is used to**  
41 **render emergency care.**

42 [4.] 2. Any person or entity who acquires an automated external defibrillator shall notify  
43 the emergency communications district or the ambulance dispatch center of the primary provider  
44 of emergency medical services where the automated external defibrillator is to be located.

45 [5.] 3. Any person who has had appropriate training, including a course in  
46 cardiopulmonary resuscitation, has demonstrated a proficiency in the use of an automated  
47 external defibrillator, and who gratuitously and in good faith renders emergency care when  
48 medically appropriate by use of or provision of an automated external defibrillator, without  
49 objection of the injured victim or victims thereof, shall not be held liable for any civil damages  
50 as a result of such care or treatment, where the person acts as an ordinarily reasonable, prudent  
51 person, or with regard to a health care professional, as a reasonably prudent and careful health  
52 care provider would have acted, under the same or similar circumstances. Nothing in this section  
53 shall affect any claims brought pursuant to chapter 537 or 538, RSMo.

190.094. [In any county of the second classification containing part of a city which is  
2 located in four counties and any county bordering said county on the east and south and in any  
3 county of the third classification with a population of at least eight thousand four hundred but  
4 less than eight thousand five hundred inhabitants containing part of a lake of nine hundred  
5 fifty-eight miles of shoreline but less than one thousand miles of shoreline] **In any county of the**

6 **first classification without a charter form of government and with more than eighty-two**  
7 **thousand but less than eighty-two thousand one hundred inhabitants and in any county**  
8 **of the third classification with a township form of government and with more than sixteen**  
9 **thousand six hundred but less than sixteen thousand seven hundred inhabitants and in any**  
10 **county of the third classification with a township form of government and with more than**  
11 **twenty-one thousand nine hundred fifty but less than twenty-two thousand nine hundred**  
12 **fifty inhabitants and in any county of the fourth classification with more than forty-eight**  
13 **thousand two hundred but less than forty-eight thousand three hundred inhabitants and**  
14 **in any county of the third classification without a township form of government and with**  
15 **more than nine thousand six hundred fifty but less than nine thousand seven hundred fifty**  
16 **inhabitants, each ambulance, when in use as an ambulance, shall be staffed with a minimum**  
17 **of one emergency medical technician and one other crew member as set forth in rules adopted**  
18 **by the department. When transporting a patient, at least one licensed emergency medical**  
19 **technician, [mobile emergency medical technician,] registered nurse or physician shall be in**  
20 **attendance with the patient in the patient compartment at all times.**

190.100. As used in sections 190.001 to 190.245, the following words and terms mean:

- 2 (1) "Advanced life support (ALS)", an advanced level of care as provided to the adult  
3 and pediatric patient such as defined by national curricula, and any modifications to that curricula  
4 specified in rules adopted by the department pursuant to sections 190.001 to 190.245;
- 5 (2) "Ambulance", any privately or publicly owned vehicle or craft that is specially  
6 designed, constructed or modified, staffed or equipped for, and is intended or used, maintained  
7 or operated for the transportation of persons who are sick, injured, wounded or otherwise  
8 incapacitated or helpless, or who require the presence of medical equipment being used on such  
9 individuals, but the term does not include any motor vehicle specially designed, constructed or  
10 converted for the regular transportation of persons who are disabled, handicapped, normally  
11 using a wheelchair, or otherwise not acutely ill, or emergency vehicles used within airports;
- 12 (3) "Ambulance service", a person or entity that provides emergency or nonemergency  
13 ambulance transportation and services, or both, in compliance with sections 190.001 to 190.245,  
14 and the rules promulgated by the department pursuant to sections 190.001 to 190.245;
- 15 (4) "Ambulance service area", a specific geographic area in which an ambulance service  
16 has been authorized to operate;
- 17 (5) "Basic life support (BLS)", a basic level of care, as provided to the adult and pediatric  
18 patient as defined by national curricula, and any modifications to that curricula specified in rules  
19 adopted by the department pursuant to sections 190.001 to 190.245;
- 20 (6) "Council", the state advisory council on emergency medical services;
- 21 (7) "Department", the department of health, state of Missouri;



22 (8) "Director", the director of the department of health or the director's duly authorized  
23 representative;

24 (9) "Dispatch agency", any person or organization that receives requests for emergency  
25 medical services from the public, by telephone or other means, and is responsible for dispatching  
26 emergency medical services;

27 (10) "Emergency", the sudden and, at the time, unexpected onset of a health condition  
28 that manifests itself by symptoms of sufficient severity that would lead a prudent layperson,  
29 possessing an average knowledge of health and medicine, to believe that the absence of  
30 immediate medical care could result in:

31 (a) Placing the person's health, or with respect to a pregnant woman, the health of the  
32 woman or her unborn child, in significant jeopardy;

33 (b) Serious impairment to a bodily function;

34 (c) Serious dysfunction of any bodily organ or part;

35 (d) Inadequately controlled pain;

36 (11) "Emergency medical dispatcher", a person who receives emergency calls from the  
37 public and has successfully completed an emergency medical dispatcher course, meeting or  
38 exceeding the national curriculum of the United States Department of Transportation and any  
39 modifications to such curricula specified by the department through rules adopted pursuant to  
40 sections 190.001 to 190.245;

41 (12) "Emergency medical response agency", any person that regularly provides a level  
42 of care that includes first response, basic life support or advanced life support, exclusive of  
43 patient transportation;

44 (13) "Emergency medical services for children (EMS-C) system", the arrangement of  
45 personnel, facilities and equipment for effective and coordinated delivery of pediatric emergency  
46 medical services required in prevention and management of incidents which occur as a result of  
47 a medical emergency or of an injury event, natural disaster or similar situation;

48 (14) "Emergency medical services (EMS) system", the arrangement of personnel,  
49 facilities and equipment for the effective and coordinated delivery of emergency medical services  
50 required in prevention and management of incidents occurring as a result of an illness, injury,  
51 natural disaster or similar situation;

52 (15) "Emergency medical technician", a person licensed in emergency medical care in  
53 accordance with standards prescribed by sections 190.001 to 190.245, and by rules adopted by  
54 the department pursuant to sections 190.001 to 190.245;

55 (16) "Emergency medical technician-basic" or "EMT-B", a person who has successfully  
56 completed a course of instruction in basic life support as prescribed by the department and is  
57 licensed by the department in accordance with standards prescribed by sections 190.001 to

58 190.245 and rules adopted by the department pursuant to sections 190.001 to 190.245;

59 (17) "Emergency medical technician-paramedic" or "EMT-P", a person who has  
60 successfully completed a course of instruction in advanced life support care as prescribed by the  
61 department and is licensed by the department in accordance with sections 190.001 to 190.245  
62 and rules adopted by the department pursuant to sections 190.001 to 190.245;

63 (18) "Emergency services", health care items and services furnished or required to screen  
64 and stabilize an emergency which may include, but shall not be limited to, health care services  
65 that are provided in a licensed hospital's emergency facility by an appropriate provider or by an  
66 ambulance service or emergency medical response agency;

67 (19) "First responder", a person who has successfully completed an emergency first  
68 response course meeting or exceeding the national curriculum of the United States Department  
69 of Transportation and any modifications to such curricula specified by the department through  
70 rules adopted pursuant to sections 190.001 to 190.245 and who provides emergency medical care  
71 through employment by or in association with an emergency medical response agency;

72 (20) "Health care facility", a hospital, nursing home, physician's office or other fixed  
73 location at which medical and health care services are performed;

74 (21) "Hospital", an establishment as defined in the hospital licensing law, subsection 2  
75 of section 197.020, RSMo, or a hospital operated by the state;

76 (22) "Medical control", supervision provided by or under the direction of physicians to  
77 providers by written or verbal communications;

78 (23) "Medical direction", medical guidance and supervision provided by a physician to  
79 an emergency services provider or emergency medical services system;

80 (24) "Medical director", a physician licensed pursuant to chapter 334, RSMo, designated  
81 by the ambulance service or emergency medical response agency and who meets criteria  
82 specified by the department by rules pursuant to sections 190.001 to 190.245;

83 (25) "Memorandum of understanding", an agreement between an emergency medical  
84 response agency or dispatch agency and an ambulance service or services within whose territory  
85 the agency operates, in order to coordinate emergency medical services;

86 (26) "Patient", an individual who is sick, injured, wounded, diseased, or otherwise  
87 incapacitated or helpless, or dead, excluding deceased individuals being transported from or  
88 between private or public institutions, homes or cemeteries, and individuals declared dead prior  
89 to the time an ambulance is called for assistance;

90 (27) "Person", as used in these definitions and elsewhere in sections 190.001 to 190.245,  
91 any individual, firm, partnership, copartnership, joint venture, association, cooperative  
92 organization, corporation, municipal or private, and whether organized for profit or not, state,  
93 county, political subdivision, state department, commission, board, bureau or fraternal

94 organization, estate, public trust, business or common law trust, receiver, assignee for the benefit  
95 of creditors, trustee or trustee in bankruptcy, or any other service user or provider;

96 (28) "Physician", a person licensed as a physician pursuant to chapter 334, RSMo;

97 (29) "Political subdivision", any municipality, city, county, city not within a county,  
98 ambulance district or fire protection district located in this state which provides or has authority  
99 to provide ambulance service;

100 (30) "Professional organization", any organized group or association with an ongoing  
101 interest regarding emergency medical services. Such groups and associations could include those  
102 representing volunteers, labor, management, firefighters, EMT-B's, nurses, EMT-P's, physicians,  
103 communications specialists and instructors. Organizations could also represent the interests of  
104 ground ambulance services, air ambulance services, fire service organizations, law enforcement,  
105 hospitals, trauma centers, communication centers, pediatric services, labor unions and poison  
106 control services;

107 (31) **"Proof of financial responsibility", proof of ability to respond to damages for**  
108 **liability, on account of accidents occurring subsequent to the effective date of such proof,**  
109 **arising out of the ownership, maintenance, or use of a motor vehicle in the financial**  
110 **amount set in rules promulgated by the department, but in no event less than the statutory**  
111 **minimum required for motor vehicles. Proof of financial responsibility shall be used as**  
112 **proof of self-insurance;**

113 (32) "Protocol", a predetermined, written medical care guideline, which may include  
114 standing orders;

115 [(32)] (33) "Regional EMS advisory committee", a committee formed within an  
116 emergency medical services (EMS) region to advise ambulance services, the state advisory  
117 council on EMS and the department;

118 [(33)] (34) "Stabilize", with respect to an emergency, the provision of such medical  
119 treatment as may be necessary to attempt to assure within reasonable medical probability that no  
120 material deterioration of an individual's medical condition is likely to result from or occur during  
121 ambulance transportation unless the likely benefits of such transportation outweigh the risks;

122 [(34)] (35) "State advisory council on emergency medical services", a committee formed  
123 to advise the department on policy affecting emergency medical service throughout the state;

124 [(35)] (36) "State EMS medical directors advisory committee", a subcommittee of the  
125 state advisory council on emergency medical services formed to advise the state advisory council  
126 on emergency medical services and the department on medical issues;

127 [(36)] (37) "Trauma", an injury to human tissues and organs resulting from the transfer  
128 of energy from the environment;

129 [(37)] (38) "Trauma care" includes injury prevention, triage, acute care and rehabilitative

130 services for major single system or multisystem injuries that potentially require immediate  
131 medical or surgical intervention or treatment;

132 [(38)] (39) "Trauma center", a hospital that is currently designated as such by the  
133 department.

190.105. 1. No person, either as owner, agent or otherwise, shall furnish, operate,  
2 conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business  
3 or service of the transportation of patients by ambulance in the air, upon the streets, alleys, or any  
4 public way or place of the state of Missouri unless such person holds a currently valid license  
5 from the department for an ambulance service issued pursuant to the provisions of sections  
6 190.001 to 190.245.

7 2. No ground ambulance shall be operated for ambulance purposes, and no individual  
8 shall drive, attend or permit it to be operated for such purposes in the state of Missouri unless  
9 the ground ambulance is under the immediate supervision and direction of a person who is  
10 holding a currently valid Missouri license as an emergency medical technician [except that].  
11 Nothing in this section shall be construed to mean that a duly registered nurse or a duly licensed  
12 physician be required to hold an emergency medical technician's license. Each ambulance  
13 service is responsible for assuring that any person driving its ambulance is competent in  
14 emergency vehicle operations and has a safe driving record. **Each ground ambulance shall be**  
15 **staffed with at least two licensed individuals when transporting a patient, except as**  
16 **provided in section 190.094.**

17 3. No license shall be required for an ambulance service, or for the attendant of an  
18 ambulance, which:

19 (1) Is rendering assistance in the case of an emergency, major catastrophe or any other  
20 unforeseen event or series of events which jeopardizes the ability of the local ambulance service  
21 to promptly respond to emergencies; or

22 (2) Is operated from a location or headquarters outside of Missouri in order to transport  
23 patients who are picked up beyond the limits of Missouri to locations within or outside of  
24 Missouri, but no such outside ambulance shall be used to pick up patients within Missouri for  
25 transportation to locations within Missouri, except as provided in subdivision (1) of this  
26 subsection.

27 4. The issuance of a license [under the provisions of] **pursuant to** sections 190.001 to  
28 190.245 shall not be construed so as to authorize any person to provide ambulance services or  
29 to operate any ambulances without a franchise in any city not within a county or in a political  
30 subdivision in any county with a population of over nine hundred thousand inhabitants, or a  
31 franchise, contract or mutual-aid agreement in any other political subdivision which has enacted  
32 an ordinance making it unlawful to do so.

33           5. Sections 190.001 to 190.245 shall not preclude the adoption of any law, ordinance or  
34 regulation not in conflict with such sections by any city not within a county, or at least as strict  
35 as such sections by any county, municipality or political subdivision except that no such  
36 regulations or ordinances shall be adopted by a political subdivision in a county with a  
37 population of over nine hundred thousand inhabitants except by the county's governing body.

38           6. In a county with a population of over nine hundred thousand inhabitants, the  
39 governing body of the county shall set the standards for all ambulance services which shall  
40 comply with subsection 5 of this section. All such ambulance services must be licensed by the  
41 department. The governing body of such county shall not prohibit a licensed ambulance service  
42 from operating in the county, as long as the ambulance service meets county standards.

43           7. An ambulance service or vehicle when operated for the purpose of transporting  
44 persons who are sick, injured, or otherwise incapacitated shall not be treated as a common or  
45 contract carrier under the jurisdiction of the Missouri [public service commission] **division of**  
46 **motor carrier and railroad safety.**

47           8. Sections 190.001 to 190.245 shall not apply to, nor be construed to include, any motor  
48 vehicle used by an employer for the transportation of such employer's employees whose illness  
49 or injury occurs on private property, and not on a public highway or property, nor to any person  
50 operating such a motor vehicle.

51           9. A political subdivision that is authorized to operate a licensed ambulance service may  
52 establish, operate, maintain and manage its ambulance service, and select and contract with a  
53 licensed ambulance service. Any political subdivision may contract with a licensed ambulance  
54 service.

55           10. Except as provided in subsections 5 and 6, nothing in section 67.300, RSMo, or  
56 subsection 2 of section 190.109, shall be construed to authorize any municipality or county  
57 which is located within an ambulance district or a fire protection district that is authorized to  
58 provide ambulance service to promulgate laws, ordinances or regulations related to the provision  
59 of ambulance services. This provision shall not apply to any municipality or county which  
60 operates an ambulance service established prior to August 28, 1998.

61           11. Nothing in section 67.300, RSMo, or subsection 2 of section 190.109 shall be  
62 construed to authorize any municipality or county which is located within an ambulance district  
63 or a fire protection district that is authorized to provide ambulance service to operate an  
64 ambulance service without a franchise in an ambulance district or a fire protection district that  
65 is authorized to provide ambulance service which has enacted an ordinance making it unlawful  
66 to do so. This provision shall not apply to any municipality or county which operates an  
67 ambulance service established prior to August 28, 1998.

68           12. No provider of ambulance service within the state of Missouri which is licensed by

69 the department to provide such service shall discriminate regarding treatment or transportation  
70 of emergency patients on the basis of race, sex, age, color, religion, sexual preference, national  
71 origin, ancestry, handicap, medical condition or ability to pay.

72 13. No provision of this section, other than subsections 5, 6, 10 and 11 of this section,  
73 is intended to limit or supersede the powers given to ambulance districts pursuant to this chapter  
74 or to fire protection districts pursuant to chapter 321, RSMo, or to counties, cities, towns and  
75 villages pursuant to chapter 67, RSMo.

76 **14. Upon the sale or transfer of any ambulance service ownership, the owner of**  
77 **such service shall notify the department of the change in ownership within thirty days of**  
78 **such sale or transfer. After receipt of such notice, the department shall conduct an**  
79 **inspection of the ambulance service to verify compliance with the licensure standards of**  
80 **sections 190.100 to 190.245.**

190.108. 1. The department shall, within a reasonable time after receipt of an  
2 application, cause such investigation as the department deems necessary to be made of the  
3 applicant for an air ambulance license.

4 2. The department shall have the authority and responsibility to license an air ambulance  
5 service in accordance with sections 190.001 to 190.245, and in accordance with rules adopted  
6 by the department pursuant to sections 190.001 to 190.245. The department may promulgate  
7 rules relating to the requirements for an air ambulance license including, but not limited to:

- 8 (1) Medical control plans;
- 9 (2) Medical director qualifications;
- 10 (3) Air medical staff qualifications;
- 11 (4) Response and operations standards to assure that the health and safety needs of the  
12 public are met;
- 13 (5) Standards for air medical communications;
- 14 (6) Criteria for compliance with licensure requirements;
- 15 (7) Records and forms;
- 16 (8) Equipment requirements;
- 17 (9) Five-year license renewal;
- 18 (10) Quality improvement committees; and
- 19 (11) Response time, patient care and transportation standards.

20 3. Application for an air ambulance service license shall be made upon such forms as  
21 prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The  
22 application form shall contain such information as the department deems necessary to make a  
23 determination as to whether the air ambulance service meets all the requirements of sections  
24 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

25           **4. Upon the sale or transfer of any ambulance service ownership, the owner of such**  
26 **service shall notify the department of the change in ownership within thirty days of such**  
27 **sale or transfer. After receipt of such notice, the department shall conduct an inspection**  
28 **of the ambulance service to verify compliance with the licensure standards of sections**  
29 **190.100 to 190.245.**

190.109. 1. The department shall, within a reasonable time after receipt of an  
2 application, cause such investigation as the department deems necessary to be made of the  
3 applicant for a ground ambulance license.

4           2. Any person that owned and operated a licensed ambulance on December 31, 1997,  
5 shall receive an ambulance service license from the department, unless suspended, revoked or  
6 terminated, for that ambulance service area which was, on December 31, 1997, described and  
7 filed with the department as the primary service area for its licensed ambulances on August 28,  
8 1998, provided that the person makes application and adheres to the rules and regulations  
9 promulgated by the department pursuant to sections 190.001 to 190.245.

10           3. The department shall issue a new ground ambulance service license to an ambulance  
11 service that is not currently licensed by the department, or is currently licensed by the department  
12 and is seeking to expand its ambulance service area, except as provided in subsection 4 of this  
13 section, to be valid for a period of five years, unless suspended, revoked or terminated, when the  
14 director finds that the applicant meets the requirements of ambulance service licensure  
15 established pursuant to sections 190.100 to 190.245 and the rules adopted by the department  
16 pursuant to sections 190.001 to 190.245. In order to be considered for a new ambulance service  
17 license, an ambulance service shall submit to the department a letter of endorsement from each  
18 ambulance district or fire protection district that is authorized to provide ambulance service, or  
19 from each municipality not within an ambulance district or fire protection district that is  
20 authorized to provide ambulance service, in which the ambulance service proposes to operate.  
21 If an ambulance service proposes to operate in unincorporated portions of a county not within  
22 an ambulance district or fire protection district that is authorized to provide ambulance service,  
23 in order to be considered for a new ambulance service license, the ambulance service shall  
24 submit to the department a letter of endorsement from the county. Any letter of endorsement  
25 **required pursuant to this section** shall verify that the political subdivision has conducted a  
26 public hearing regarding the endorsement and that the governing body of the political subdivision  
27 has adopted a resolution approving the endorsement.

28 **The letter of endorsement shall affirmatively state that the proposed ambulance service:**

- 29           **(1) Will provide a benefit to public health that outweighs the associated costs;**  
30           **(2) Will maintain or enhance the public's access to ambulance services;**  
31           **(3) Will maintain or improve the public health and promote the continued**

32 **development of the regional emergency medical service system;**

33 **(4) Has demonstrated the appropriate expertise in the operation of ambulance**  
34 **services; and**

35 **(5) Has demonstrated the financial resources necessary for the operation of the**  
36 **proposed ambulance service.**

37 4. A contract between a political subdivision and a licensed ambulance service for the  
38 provision of ambulance services for that political subdivision shall expand, without further action  
39 by the department, the ambulance service area of the licensed ambulance service to include the  
40 jurisdictional boundaries of the political subdivision. The termination of the aforementioned  
41 contract shall result in a reduction of the licensed ambulance service's ambulance service area  
42 by removing the geographic area of the political subdivision from its ambulance service area,  
43 except that licensed ambulance service providers may provide ambulance services as are needed  
44 at and around the state fair grounds for protection of attendees at the state fair.

45 5. The department shall renew a ground ambulance service license if the applicant meets  
46 the requirements established pursuant to sections 190.001 to 190.245, and the rules adopted by  
47 the department pursuant to sections 190.001 to 190.245.

48 6. The department shall promulgate rules relating to the requirements for a ground  
49 ambulance service license including, but not limited to:

50 (1) Vehicle design, specification, operation and maintenance standards;

51 (2) Equipment requirements;

52 (3) Staffing requirements;

53 (4) Five-year license renewal;

54 (5) Records and forms;

55 (6) Medical control plans;

56 (7) Medical director qualifications;

57 (8) Standards for medical communications;

58 (9) Memorandums of understanding with emergency medical response agencies that  
59 provide advanced life support;

60 (10) Quality improvement committees; and

61 (11) Response time, patient care and transportation standards.

62 7. Application for a ground ambulance service license shall be made upon such forms  
63 as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The  
64 application form shall contain such information as the department deems necessary to make a  
65 determination as to whether the ground ambulance service meets all the requirements of sections  
66 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

**190.111. 1. Notwithstanding any other provisions of law, the department may grant**



2 a temporary ambulance service license to the Firefighter's Association of Missouri to  
3 operate an ambulance service at the annual Missouri state fair provided that they meet the  
4 following requirements:

5 (1) Have submitted a complete application upon such forms as prescribed by the  
6 department in rules adopted pursuant to sections 190.001 to 190.245;

7 (2) Have not been disciplined pursuant to sections 190.001 to 190.245 and the rules  
8 promulgated thereunder; and

9 (3) Meet all the requirements of rules promulgated pursuant to sections 190.001 to  
10 190.245.

11 2. This temporary ambulance service license shall only authorize the licensee to  
12 provide ambulance service under the temporary requirements established by the  
13 department in the geographic area established by the department.

14 3. This temporary ambulance service license shall have an expiration date, as  
15 determined by the department.

190.120. 1. No ambulance service license shall be issued pursuant to sections 190.001  
2 to 190.245, nor shall such license be valid after issuance, nor shall any ambulance be operated  
3 in Missouri unless there is at all times in force and effect insurance coverage [issued by an  
4 insurance company] **or proof of financial responsibility with adequate reserves maintained**  
5 for each and every ambulance owned or operated by or for the applicant or licensee[, or unless  
6 any city not within a county which owns or operates the license has at all times sufficient  
7 self-insurance coverage] to provide for the payment of damages in an amount as prescribed in  
8 regulation:

9 (1) For injury to or death of individuals in accidents resulting from any cause for which  
10 the owner of [said] **such** vehicle would be liable on account of liability imposed on [him] **the**  
11 **owner** by law, regardless of whether the ambulance was being driven by the owner or the  
12 owner's agent; and

13 (2) For the loss of or damage to the property of another, including personal property,  
14 under like circumstances.

15 2. The insurance policy[, or in the case of a self-insured city not within a county, proof  
16 of self-insurance,] **or proof of financial responsibility** shall be submitted by all licensees  
17 required to provide such insurance pursuant to sections 190.001 to 190.245. The insurance  
18 policy, or proof of the existence of [self-insurance of a city not within a county,] **financial**  
19 **responsibility**, shall be submitted to the director, in such form as the director may specify, for  
20 the director's approval prior to the issuance of each ambulance service license.

21 3. Every insurance policy **or proof of financial responsibility document** required by  
22 the provisions of this section shall contain [or in the case of a self-insured city not within a

23 county shall have] proof of a provision for a continuing liability thereunder to the full amount  
24 thereof, notwithstanding any recovery thereon; that the liability of the insurer shall not be  
25 affected by the insolvency or the bankruptcy of the assured; and that until the policy is revoked  
26 the insurance company or self-insured [city not within a county] **licensee or entity** will not be  
27 relieved from liability on account of nonpayment of premium, failure to renew license at the end  
28 of the year, or any act or omission of the named assured. Such policy of insurance or  
29 self-insurance shall be further conditioned for the payment of any judgments up to the limits of  
30 [said] **such** policy, recovered against any person other than the owner, the owner's agent or  
31 employee, who may operate the same with the consent of the owner.

32 4. Every insurance policy or self-insured [city not within a county] **licensee or entity** as  
33 required by [the provisions of] this section shall extend for the period to be covered by the  
34 license applied for and the insurer shall be obligated to give not less than thirty days' written  
35 notice to the director and to the insured before any cancellation or termination thereof earlier than  
36 its expiration date, and the cancellation or other termination of any such policy shall  
37 automatically revoke and terminate the licenses issued for the ambulance service covered by such  
38 policy unless covered by another insurance policy in compliance with sections 190.001 to  
39 190.245.

190.142. 1. The department shall, within a reasonable time after receipt of an  
2 application, cause such investigation as it deems necessary to be made of the applicant for an  
3 emergency medical technician's license. The director may authorize investigations into criminal  
4 records in other states for any applicant.

5 2. The department shall issue a license to all levels of emergency medical technicians,  
6 for a period of five years, if the applicant meets the requirements established pursuant to sections  
7 190.001 to 190.245 and the rules adopted by the department pursuant to sections 190.001 to  
8 190.245. The department may promulgate rules relating to the requirements for an emergency  
9 medical technician including but not limited to:

10 (1) Age requirements;

11 (2) Education and training requirements based on respective national curricula of the  
12 United States Department of Transportation and any modification to such curricula specified by  
13 the department through rules adopted pursuant to sections 190.001 to 190.245;

14 (3) Initial licensure testing requirements;

15 (4) Continuing education and relicensure requirements; and

16 (5) Ability to speak, read and write the English language.

17 3. Application for all levels of emergency medical technician license shall be made upon  
18 such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to  
19 190.245. The application form shall contain such information as the department deems

20 necessary to make a determination as to whether the emergency medical technician meets all the  
21 requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001  
22 to 190.245.

23 4. All levels of emergency medical technicians may perform only that patient care which  
24 is:

25 (1) Consistent with the training, education and experience of emergency medical  
26 technicians; and

27 (2) Ordered by a physician or set forth in protocols approved by the medical director.

28 5. No person shall hold themselves out as an emergency medical technician or provide  
29 the services of an emergency medical technician unless such person is licensed by the  
30 department.

31 [6. All patients transported in a supine position in a vehicle other than an ambulance  
32 shall receive an appropriate level of care. The department shall promulgate rules regarding the  
33 provisions of this section. This subsection shall only apply to vehicles transporting patients for  
34 a fee.]

190.160. The renewal of any license shall require conformance with sections 190.001  
2 to 190.245 **and sections 190.525 to 190.537**, and rules adopted by the department pursuant to  
3 sections 190.001 to 190.245 **and sections 190.525 to 190.537**.

190.165. 1. The department may refuse to issue or deny renewal of any certificate,  
2 permit or license required pursuant to sections 190.100 to 190.245 for failure to comply with [the  
3 provisions of this act] **sections 190.100 to 190.245** or any lawful regulations promulgated by the  
4 department to implement its provisions as described in subsection 2 of this section. The  
5 department shall notify the applicant in writing of the reasons for the refusal and shall advise the  
6 applicant of his or her right to file a complaint with the administrative hearing commission as  
7 provided by chapter 621, RSMo.

8 2. The department may cause a complaint to be filed with the administrative hearing  
9 commission as provided by chapter 621, RSMo, against any holder of any certificate, permit or  
10 license required by sections 190.100 to 190.245 or any person who has failed to renew or has  
11 surrendered [his or her] **such** certificate, permit or license for failure to comply with [the  
12 provisions of] sections 190.100 to 190.245 or any lawful regulations promulgated by the  
13 department to implement such sections. Those regulations shall be limited to the following:

14 (1) Use or unlawful possession of any controlled substance, as defined in chapter 195,  
15 RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the  
16 work of any activity licensed or regulated by sections 190.100 to 190.245;

17 (2) Being finally adjudicated and found guilty, or having entered a plea of guilty or nolo  
18 contendere, in a criminal prosecution under the laws of any state or of the United States, for any

19 offense reasonably related to the qualifications, functions or duties of any activity licensed or  
20 regulated pursuant to sections 190.100 to 190.245, for any offense an essential element of which  
21 is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether  
22 or not sentence is imposed;

23 (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate,  
24 permit or license issued pursuant to sections 190.100 to 190.245 or in obtaining permission to  
25 take any examination given or required pursuant to sections 190.100 to 190.245;

26 (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by  
27 fraud, deception or misrepresentation;

28 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty  
29 in the performance of the functions or duties of any activity licensed or regulated by sections  
30 190.100 to 190.245;

31 (6) Violation of, or assisting or enabling any person to violate, any provision of sections  
32 190.100 to 190.245, or of any lawful rule or regulation adopted by the department pursuant to  
33 sections 190.100 to 190.245;

34 (7) Impersonation of any person holding a certificate, permit or license or allowing any  
35 person to use his or her certificate, permit, license or diploma from any school;

36 (8) Disciplinary action against the holder of a license or other right to practice any  
37 activity regulated by sections 190.100 to 190.245 granted by another state, territory, federal  
38 agency or country upon grounds for which revocation or suspension is authorized in this state;

39 (9) For an individual being finally adjudged insane or incompetent by a court of  
40 competent jurisdiction;

41 (10) Assisting or enabling any person to practice or offer to practice any activity licensed  
42 or regulated by sections 190.100 to 190.245 who is not licensed and currently eligible to practice  
43 pursuant to sections 190.100 to 190.245;

44 (11) Issuance of a certificate, permit or license based upon a material mistake of fact;

45 (12) Violation of any professional trust or confidence;

46 (13) Use of any advertisement or solicitation which is false, misleading or deceptive to  
47 the general public or persons to whom the advertisement or solicitation is primarily directed;

48 (14) Violation of the drug laws or rules and regulations of this state, any other state or  
49 the federal government[.];

50 **(15) Refusal of any applicant or licensee to cooperate with the department of health**  
51 **during any investigation;**

52 **(16) Any conduct or practice which is or might be harmful or dangerous to the**  
53 **mental or physical health of a patient or the public;**

54 **(17) Gross negligence or repeated negligence in the performance of the functions**

55 **or duties of any activity licensed by this chapter.**

56         3. After the filing of such complaint, the proceedings shall be conducted in accordance  
57 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing  
58 commission that the grounds, provided in subsection 2 of this section, for disciplinary action are  
59 met, the department may, singly or in combination, censure or place the person named in the  
60 complaint on probation on such terms and conditions as the department deems appropriate for  
61 a period not to exceed five years, or may suspend, for a period not to exceed three years, or  
62 revoke the license, certificate or permit.

63         4. An individual whose license has been revoked shall wait one year from the date of  
64 revocation to apply for relicensure. Relicensure shall be at the discretion of the department after  
65 compliance with all the requirements of sections 190.100 to 190.245 relative to the licensing of  
66 an applicant for the first time. **Any individual whose license has been revoked twice within**  
67 **a ten-year period shall not be eligible for relicensure.**

68         5. The department may notify the proper licensing authority of any other state in which  
69 the person whose license was suspended or revoked was also licensed of the suspension or  
70 revocation.

71         6. Any person, organization, association or corporation who reports or provides  
72 information to the department pursuant to [the provisions of] sections 190.100 to 190.245 and  
73 who does so in good faith shall not be subject to an action for civil damages as a result thereof.

74         7. The department of health may suspend any certificate, permit or license required  
75 pursuant to sections 190.100 to 190.245 simultaneously with the filing of the complaint with the  
76 administrative hearing commission as set forth in subsection 2 of this section, if the department  
77 finds that there is an imminent threat to the public health. The notice of suspension shall include  
78 the basis of the suspension and notice of the right to appeal such suspension. The licensee may  
79 appeal the decision to suspend the license, certificate or permit to the department. The appeal  
80 shall be filed within ten days from the date of the filing of the complaint. A hearing shall be  
81 conducted by the department within ten days from the date the appeal is filed. The suspension  
82 shall continue in effect until the conclusion of the proceedings, including review thereof, unless  
83 sooner withdrawn by the department, dissolved by a court of competent jurisdiction or stayed by  
84 the administrative hearing commission.

       190.171. Any person aggrieved by an official action of the department of health affecting  
2 the licensed status of a person [under the provisions of] **pursuant to** sections 190.001 to 190.245  
3 **and sections 190.525 to 190.537**, including the refusal to grant, the grant, the revocation, the  
4 suspension, or the failure to renew a license, may seek a determination thereon by the  
5 administrative hearing commission pursuant to the provisions of section 621.045, RSMo, and  
6 it shall not be a condition to such determination that the person aggrieved seek a reconsideration,

7 a rehearing, or exhaust any other procedure within the department of health or the department  
8 of social services.

2 **190.172. Notwithstanding the provisions of subdivision (3) of subsection 3 of section**  
3 **621.045, RSMo, to the contrary, if no contested case has been filed against the licensee, the**  
4 **agency shall submit a copy of the settlement agreement signed by all of the parties within**  
5 **fifteen days after signature to the administrative hearing commission for determination**  
6 **that the facts agreed to by the parties to the settlement constitute grounds for denying or**  
7 **disciplining the license of the licensee. Any person who is directly harmed by the specific**  
8 **conduct for which the discipline is sought may submit a written impact statement to the**  
9 **administrative hearing commission for consideration in connection with the commission's**  
10 **review of the settlement agreement.**

2 190.175. 1. Each ambulance service licensee or emergency medical response agency  
3 licensee shall maintain accurate records, which contain information concerning the care and, if  
4 applicable, the transportation of each patient.

5 2. Records will be retained by the ambulance service licensees and emergency medical  
6 response agency licensees for five years, readily available for inspection by the department,  
7 notwithstanding transfer, sale or discontinuance of the ambulance services or business.

8 3. [An ambulance] **A patient care** report, approved by the department, shall be  
9 completed for each ambulance run on which are entered pertinent remarks by the emergency  
10 medical technician, **registered nurse or physician** and such other items as specified by rules  
11 promulgated by the department.

12 **4. A written or electronic patient care document shall be completed and given to**  
13 **the ambulance service personnel by the health care facility when a patient is transferred**  
14 **between health care facilities. Such patient care record shall contain such information**  
15 **pertinent to the continued care of the patient as well as the health and safety of the**  
16 **ambulance service personnel during the transport. Nothing in this section shall be**  
17 **construed as to limit the reporting requirements established in federal law relating to the**  
18 **transfer of patients between health care facilities.**

19 [4.] **5.** Such records shall be available for inspection by the department at any reasonable  
time during business hours.

2 190.185. The department shall adopt, amend, promulgate, and enforce such rules,  
3 regulations and standards with respect to the provisions of this chapter as may be designed to  
4 further the accomplishment of the purpose of this law in promoting state-of-the-art emergency  
5 medical services in the interest of public health, safety and welfare. When promulgating such  
6 rules and regulations, the department shall consider the recommendations of the state advisory  
council on emergency medical services. No rule or portion of a rule promulgated pursuant to the

7 authority of sections 190.001 to 190.245, **or sections 190.525 to 190.537**, shall become effective  
8 unless it has been promulgated pursuant to [the provisions of] chapter 536, RSMo.

190.196. 1. No employer shall knowingly employ or permit any employee to perform  
2 any services for which a license, certificate or other authorization is required by sections 190.001  
3 to 190.245, or by rules adopted pursuant to sections 190.001 to 190.245, unless and until the  
4 person so employed possesses all licenses, certificates or authorizations that are required.

5 2. Any person or entity that employs or supervises a person's activities as a first  
6 responder [or], emergency medical dispatcher, **emergency medical technician-basic,**  
7 **emergency medical technician-paramedic, registered nurse or physician** shall cooperate with  
8 the department's efforts to monitor and enforce compliance by those individuals subject to the  
9 requirements of sections 190.001 to 190.245.

10 3. **Any person or entity who employs individuals licensed by the department**  
11 **pursuant to sections 190.001 to 190.245 shall report to the department within seventy-two**  
12 **hours of their having knowledge of any charges filed against a licensee in their employ for**  
13 **possible criminal action involving the following felony offenses:**

14 (1) **Child abuse or sexual abuse of a child;**

15 (2) **Crimes of violence; or**

16 (3) **Rape or sexual abuse.**

17 4. **Any licensee who has charges filed against such licensee for the felony offenses**  
18 **in subsection 3 of this section shall report such an occurrence to the department within**  
19 **seventy-two hours of the charges being filed.**

20 5. **The department will monitor these reports for possible licensure action**  
21 **authorized pursuant to section 190.165.**

190.248. 1. **All investigations conducted in response to allegations of violations of**  
2 **sections 190.100 to 190.245 shall be completed within six months of receipt of the**  
3 **allegation.**

4 2. **In the course of an investigation the department shall have access to all records**  
5 **directly related to the alleged violations from persons or entities licensed pursuant to this**  
6 **chapter or chapter 197 or 198, RSMo.**

7 3. **Any department of health investigations that involve other administrative or law**  
8 **enforcement agencies shall be completed within six months of notification and final**  
9 **determination by such administrative or law enforcement agencies.**

190.525. **As used in sections 190.525 to 190.537, the following terms mean:**

2 (1) **"Department", the department of health;**

3 (2) **"Director", the director of the department of health or the director's duly**  
4 **authorized representative;**

5           (3) "Passenger", an individual needing transportation in a supine position who  
6 does not require medical monitoring, observation, aid, care or treatment during  
7 transportation, with the exception of self-administered oxygen as ordered by a physician  
8 during transportation;

9           (4) "Patient", an individual who is sick, injured, wounded, diseased, or otherwise  
10 incapacitated or helpless, and who may require medical monitoring, medical observation,  
11 aid, care or treatment during transportation, with the exception of self-administered  
12 oxygen as ordered by a physician;

13           (5) "Person", any individual, firm, partnership, copartnership, joint venture,  
14 association, cooperative organization, corporation, municipal or private, and whether  
15 organized for profit or not, state, county, political subdivision, state department,  
16 commission, board, bureau or fraternal organization, estate, public trust, business or  
17 common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in  
18 bankruptcy, or any other service user or provider;

19           (6) "Stretcher van", any vehicle other than an ambulance designed and equipped  
20 to transport passengers in a supine position. No such vehicle shall be used to provide  
21 medical services;

22           (7) "Stretcher van service", any person or agency that provides stretcher van  
23 transportation to passengers who are confined to stretchers and whose conditions are such  
24 that they do not need and are not likely to need medical attention during transportation.

          190.528. 1. No person, either as owner, agent or otherwise, shall furnish, operate,  
2 conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the  
3 business or service of the transportation of passengers by stretcher van upon the streets,  
4 alleys, or any public way or place of the state of Missouri unless such person holds a  
5 currently valid license from the department for a stretcher van service issued pursuant  
6 sections 190.525 to 190.537, notwithstanding any provisions of chapter 390 or 622, RSMo,  
7 to the contrary.

8           2. Subsection 1 of this section shall not preclude any political subdivision that is  
9 authorized to operate a licensed ambulance service from adopting any law, ordinance, or  
10 regulation governing the operation of stretcher vans that is at least as strict as the  
11 minimum state standards, except that no such regulations or ordinances shall be adopted  
12 by a political subdivision in a county of the first classification with a charter form of  
13 government and with more than one million inhabitants except by the county's governing  
14 body and no such regulations or ordinances shall prohibit stretcher van services that were  
15 legally picking up passengers within a political subdivision before January 1, 2002, from  
16 continuing to operate within that political subdivision and no political subdivision which



17 did not regulate or prohibit stretcher van services as of January 1, 2002, shall implement  
18 unreasonable regulations or ordinances to prevent the establishment and operation of such  
19 services.

20 3. In any county of the first classification with a charter form of government and  
21 with more than one million inhabitants, the governing body of the county shall set  
22 reasonable standards for all stretcher van services which shall comply with subsection 2  
23 of this section. All such stretcher van services must be licensed by the department. The  
24 governing body of such county shall not prohibit a licensed stretcher van service from  
25 operating in the county, as long as the stretcher van service meets county standards.

26 4. Nothing shall preclude the enforcement of any laws, ordinances, or regulations  
27 of any political subdivision authorized to operate a licensed ambulance service that were  
28 in effect prior to August 28, 2002.

29 5. Stretcher van services may transport passengers.

30 6. A stretcher van shall be staffed by at least two individuals when transporting  
31 passengers.

32 7. The crew of the stretcher van is required to immediately contact the appropriate  
33 ground ambulance service if a passenger's condition deteriorates.

34 8. Stretcher van services shall not transport patients, persons currently admitted  
35 to a hospital, or persons being transported to a hospital for admission or emergency  
36 treatment.

37 9. The department of health shall promulgate regulations, including but not limited  
38 to adequate insurance, on-board equipment, vehicle staffing, vehicle maintenance, vehicle  
39 specifications, vehicle communications, passenger safety, and records and reports.

40 10. The department of health shall issue service licenses for a period of no more  
41 than five years for each service meeting the established rules.

42 11. Application for a stretcher van license shall be made upon such forms as  
43 prescribed by the department in rules adopted pursuant to sections 190.525 to 190.537.  
44 The application form shall contain such information as the department deems necessary  
45 to make a determination as to whether the stretcher van agency meets all the requirements  
46 of sections 190.525 to 190.537 and rules promulgated pursuant to sections 190.525 to  
47 190.537. The department shall conduct an inspection of the stretcher van service to verify  
48 compliance with the licensure standards of sections 190.525 to 190.537.

49 12. Upon the sale or transfer of any stretcher van service ownership, the owner of  
50 the stretcher van service shall notify the department of the change in ownership within  
51 thirty days before the sale or transfer. The department shall conduct an inspection of the  
52 stretcher van service to verify compliance with the licensure standards of sections 190.525

53 to 190.537.

54       **13. Ambulance services licensed pursuant to this chapter or any rules promulgated**  
55 **by the department of health pursuant to this chapter may provide stretcher van and wheel**  
56 **chair transportation services pursuant to sections 190.525 to 190.537.**

**190.531. 1. The department may refuse to issue or deny renewal of any license**  
2 **required pursuant to sections 190.525 to 190.537 for failure to comply with sections 190.525**  
3 **to 190.537 or any lawful regulations promulgated by the department to implement sections**  
4 **190.525 to 190.537. The department shall notify the applicant in writing of the reasons for**  
5 **the refusal and shall advise the applicant of the right to file a complaint with the**  
6 **administrative hearing commission as provided by chapter 621, RSMo.**

7       **2. The department may cause a complaint to be filed with the administrative**  
8 **hearing commission as provided by chapter 621, RSMo, against any holder of any license**  
9 **required by sections 190.525 to 190.537 or any person who has failed to renew or has**  
10 **surrendered such license for failure to comply with sections 190.525 to 190.537 or any**  
11 **lawful regulations promulgated by the department to implement such sections. Those**  
12 **regulations shall be limited to the following:**

13       **(1) Use or unlawful possession of any controlled substance, as defined in chapter**  
14 **195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to**  
15 **perform the work of any activity licensed or regulated by sections 190.525 to 190.537;**

16       **(2) Being finally adjudicated and found guilty, or having entered a plea of guilty**  
17 **or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the**  
18 **United States, for any offense reasonably related to the qualifications, functions, or duties**  
19 **of any activity licensed or regulated pursuant to sections 190.525 to 190.537, for any offense**  
20 **an essential element of which is fraud, dishonesty, or an act of violence, or for any offense**  
21 **involving moral turpitude, whether or not sentence is imposed;**

22       **(3) Use of fraud, deception, misrepresentation, or bribery in securing any**  
23 **certificate, permit, or license issued pursuant to sections 190.525 to 190.537 or in obtaining**  
24 **permission to take any examination given or required pursuant to sections 190.525 to**  
25 **190.537;**

26       **(4) Obtaining or attempting to obtain any fee, charge, tuition, or other**  
27 **compensation by fraud, deception, or misrepresentation;**

28       **(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or**  
29 **dishonesty in the performance of the functions or duties of any activity licensed or**  
30 **regulated by sections 190.525 to 190.537;**

31       **(6) Violation of, or assisting or enabling any person to violate, any provision of**  
32 **sections 190.525 to 190.537, or of any lawful rule or regulation adopted by the department**

33 pursuant to sections 190.525 to 190.537;

34 (7) Impersonation of any person holding a license or allowing any person to use his  
35 or her license;

36 (8) Disciplinary action against the holder of a license or other right to practice any  
37 activity regulated by sections 190.525 to 190.537 granted by another state, territory, federal  
38 agency, or country upon grounds for which revocation or suspension is authorized in this  
39 state;

40 (9) For an individual, being finally adjudged insane or incompetent by a court of  
41 competent jurisdiction;

42 (10) Issuance of a license based upon a material mistake of fact;

43 (11) Violation of any professional trust or confidence;

44 (12) Use of any advertisement or solicitation which is false, misleading, or deceptive  
45 to the general public or persons to whom the advertisement or solicitation is primarily  
46 directed;

47 (13) Violation of the drug laws or rules and regulations of this state, any other state,  
48 or the federal government;

49 (14) Refusal of any applicant or licensee, to cooperate with the department of health  
50 during any investigation;

51 (15) Any conduct or practice which is or might be harmful or dangerous to the  
52 mental or physical health of a patient or the public;

53 (16) Gross negligence or repeated negligence in the performance of the functions  
54 or duties of any activity licensed by this chapter.

55 3. After the filing of such complaint, the proceedings shall be conducted in  
56 accordance with the provisions of chapter 621, RSMo. Upon a finding by the  
57 administrative hearing commission that the grounds, as provided in subsection 2 of this  
58 section, for disciplinary action are met, the department may, singly or in combination,  
59 censure or place the person named in the complaint on probation on such terms and  
60 conditions as the department deems appropriate for a period not to exceed five years, or  
61 may suspend, for a period not to exceed three years, or revoke the license.

62 4. An individual whose license has been revoked shall wait one year from the date  
63 of revocation to apply for relicensure. Relicensure shall be at the discretion of the  
64 department after compliance with all the requirements of sections 190.525 to 190.537  
65 relative to the licensing of an applicant for the first time.

66 5. The department may notify the proper licensing authority of any other state in  
67 which the person whose license was suspended or revoked was also licensed, of the  
68 suspension or revocation.

69           **6. Any person, organization, association, or corporation who reports or provides**  
70 **information to the department pursuant to sections 190.525 to 190.537 and who does so in**  
71 **good faith and without negligence shall not be subject to an action for civil damages as a**  
72 **result thereof.**

73           **7. The department of health may suspend any license required pursuant to sections**  
74 **190.525 to 190.537 simultaneously with the filing of the complaint with the administrative**  
75 **hearing commission as set forth in subsection 2 of this section, if the department finds that**  
76 **there is an imminent threat to the public health. The notice of suspension shall include the**  
77 **basis of the suspension and notice of the right to appeal such suspension. The licensee may**  
78 **appeal the decision to suspend the license to the department. The appeal shall be filed**  
79 **within ten days from the date of the filing of the complaint. A hearing shall be conducted**  
80 **by the department within ten days from the date the appeal is filed. The suspension shall**  
81 **continue in effect until the conclusion of the proceedings, including review thereof, unless**  
82 **sooner withdrawn by the department, dissolved by a court of competent jurisdiction, or**  
83 **stayed by the administrative hearing commission.**

**190.534. 1. Any person violating, or failing to comply with, sections 190.525 to**  
2 **190.537 is guilty of a class B misdemeanor.**

3           **2. Each day that any violation of, or failure to comply with, sections 190.525 to**  
4 **190.537 is committed or permitted to continue shall constitute a separate and distinct**  
5 **offense, and shall be punishable as a separate offense pursuant to this section; but the court**  
6 **may, in appropriate cases, stay the cumulation of penalties.**

7           **3. The attorney general shall have concurrent jurisdiction with any and all**  
8 **prosecuting attorneys to prosecute persons in violation of sections 190.525 to 190.537, and**  
9 **the attorney general or prosecuting attorney may institute injunctive proceedings against**  
10 **any person operating in violation of sections 190.525 to 190.537.**

**190.537. No rule or portion of a rule promulgated pursuant to the authority of**  
2 **sections 190.525 to 190.537 shall become effective unless it has been promulgated pursuant**  
3 **to chapter 536, RSMo.**

**197.705. All hospitals, as defined in section 197.020, and health care facilities[, defined**  
2 **in sections 197.020 and 197.305,]shall require all personnel providing services in such facilities**  
3 **to wear identification badges while acting within the scope of their employment. The**  
4 **identification badges of all personnel shall prominently display the licensure status of such**  
5 **personnel. For purposes of this section, "health care facilities" means hospitals, health**  
6 **maintenance organizations, tuberculosis hospitals, psychiatric hospitals, intermediate care**  
7 **facilities, skilled nursing facilities, residential care facilities I and II, kidney disease**  
8 **treatment centers, including freestanding hemodialysis units, diagnostic imaging centers,**

9 radiation therapy centers and ambulatory surgical facilities, but excluding the private  
10 offices of physicians, dentists, and other practitioners of the healing arts, and Christian  
11 Science sanatoriums, also known as Christian Science Nursing facilities listed and certified  
12 by the Commission for Accreditation of Christian Science Nursing Organization/Facilities,  
13 Inc., and facilities of not-for-profit corporations in existence on October 1, 1980, subject  
14 either to the provisions and regulations of Section 302 of the Labor-Management Relations  
15 Act, 29 U.S.C. 186 or the Labor-Management Reporting and Disclosure Act, 29 U.S.C.  
16 401-538, and any residential care facility I or residential care facility II operated by a  
17 religious organization qualified pursuant to Section 501(c)(3) of the federal Internal  
18 Revenue Code, as amended, which does not require the expenditure of public funds for  
19 purchase or operation, with a total licensed bed capacity of one hundred beds or fewer.

198.530. 1. If an enrollee in a managed care organization is also a resident in a  
2 long-term care facility licensed pursuant to chapter 198, or a continuing care retirement  
3 community, [as defined in section 197.305, RSMo,] such enrollee's managed care organization  
4 shall provide the enrollee with the option of receiving the covered service in the long-term care  
5 facility which serves as the enrollee's primary residence. For purposes of this section, "managed  
6 care organization" means any organization that offers any health plan certified by the department  
7 of health and senior services designed to provide incentives to medical care providers to manage  
8 the cost and use of care associated with claims, including, but not limited to, a health  
9 maintenance organization and preferred provider organization. The resident enrollee's managed  
10 care organization shall reimburse the resident facility for those services which would otherwise  
11 be covered by the managed care organization if the following conditions apply:

12 (1) The facility is willing and able to provide the services to the resident; and  
13 (2) The facility and those health care professionals delivering services to residents  
14 pursuant to this section meet the licensing and training standards as prescribed by law; and  
15 (3) The facility is certified through Medicare; and  
16 (4) The facility and those health care professionals delivering services to residents  
17 pursuant to this section agree to abide by the terms and conditions of the health carrier's contracts  
18 with similar providers, abide by patient protection standards and requirements imposed by state  
19 or federal law for plan enrollees and meet the quality standards established by the health carrier  
20 for similar providers.

21 2. The managed care organization shall reimburse the resident facility at a rate of  
22 reimbursement not less than the Medicare allowable rate pursuant to Medicare rules and  
23 regulations.

24 3. The services in subsection 1 of this section shall include, but are not limited to, skilled  
25 nursing care, rehabilitative and other therapy services, and postacute care, as needed. Nothing

26 in this section shall limit the managed care organization from utilizing contracted providers to  
27 deliver the services in the enrollee's resident facility.

28 4. A resident facility shall not prohibit a health carrier's participating providers from  
29 providing covered benefits to an enrollee in the resident facility. A resident facility or health care  
30 professional shall not impose any charges on an enrollee for any service that is ancillary to, a  
31 component of, or in support of the services provided under this section when the services are  
32 provided by a health carrier's participating provider, or otherwise create a disincentive for the use  
33 of the health carrier's participating providers. Any violation of the requirements of this  
34 subsection by the resident facility shall be considered abuse or neglect of the resident enrollee.

198.531. 1. The division of aging, in collaboration with qualified Missouri schools and  
2 universities, shall establish an aging-in-place pilot program at a maximum of four selected sites  
3 throughout the state which will provide a continuum of care for elders who need long-term care.  
4 For purposes of this section, "qualified Missouri schools and universities" means any Missouri  
5 school or university which has a school of nursing, a graduate nursing program, or any other  
6 similar program or specialized expertise in the areas of aging, long-term care or health services  
7 for the elderly.

8 2. The pilot program shall:

9 (1) Deliver a full range of physical and mental health services to residents in the least  
10 restrictive environment of choice to reduce the necessity of relocating such residents to other  
11 locations as their health care needs change;

12 (2) Base licensure on services provided rather than on facility type; and

13 (3) Be established in selected urban, rural and regional sites throughout the state.

14 3. The directors of the division of aging and division of medical services shall apply for  
15 all federal waivers necessary to provide Medicaid reimbursement for health care services  
16 received through the aging-in-place pilot program.

17 4. The division of aging shall monitor the pilot program and report to the general  
18 assembly on the effectiveness of such program, including quality of care, resident satisfaction  
19 and cost-effectiveness to include the cost equivalent of unpaid or volunteer labor.

20 5. Developments authorized by this section shall be [exempt from the provisions of  
21 sections 197.300 to 197.367, RSMo, and shall be] licensed by the division of aging.

208.169. 1. Notwithstanding other provisions of this chapter, including but not limited  
2 to sections 208.152, 208.153, 208.159 and 208.162:

3 (1) There shall be no revisions to a facility's reimbursement rate for providing nursing  
4 care services under this chapter upon a change in ownership, management control, operation,  
5 stock, leasehold interests by whatever form for any facility previously licensed or certified for  
6 participation in the Medicaid program. Increased costs for the successor owner, management

7 or leaseholder that result from such a change shall not be recognized for purposes of  
8 reimbursement;

9 (2) In the case of a newly built facility or part thereof which is less than two years of age  
10 and enters the Title XIX program under this chapter after July 1, 1983, a reimbursement rate  
11 shall be assigned based on the lesser of projected estimated operating costs or one hundred ten  
12 percent of the median rate for the facility's class to include urban and rural categories for each  
13 level of care including ICF only and SNF/ICF. The rates set under this provision shall be  
14 effective for a period of twelve months from the effective date of the provider agreement at  
15 which time the rate for the future year shall be set in accordance with reported costs of the  
16 facility recognized under the reimbursement plan and as provided in subdivisions (3) and (4) of  
17 this subsection. Rates set under this section may in no case exceed the maximum ceiling  
18 amounts in effect under the reimbursement regulation;

19 (3) Reimbursement for capital related expenses for newly built facilities entering the  
20 Title XIX program after March 18, 1983, shall be calculated as the building and building  
21 equipment rate, movable equipment rate, land rate, and working capital rate.

22 (a) The building and building equipment rate will be the lower of:

23 a. Actual acquisition costs, which is the original cost to construct or acquire the building,  
24 not to exceed [the costs as determined in section 197.357, RSMo] **ten percent of the initial**  
25 **project estimate**; or

26 b. Reasonable construction or acquisition cost computed by applying the regional Dodge  
27 Construction Index for 1981 with a trend factor, if necessary, or another current construction cost  
28 measure multiplied by one hundred eight percent as an allowance for fees authorized as  
29 architectural or legal not included in the Dodge Index Value, multiplied by the square footage  
30 of the facility not to exceed three hundred twenty-five square feet per bed, multiplied by the ratio  
31 of forty minus the actual years of the age of the facility divided by forty; and multiplied by a  
32 return rate of twelve percent; and divided by ninety-three percent of the facility's total available  
33 beds times three hundred sixty-five days.

34 (b) The maximum movable equipment rate will be fifty-three cents per bed day.

35 (c) The maximum allowable land area is defined as five acres for a facility with one  
36 hundred or less beds and one additional acre for each additional one hundred beds or fraction  
37 thereof for a facility with one hundred one or more beds.

38 (d) The land rate will be calculated as:

39 a. For facilities with land areas at or below the maximum allowable land area, multiply  
40 the acquisition cost of the land by the return rate of twelve percent, divide by ninety-three percent  
41 of the facility's total available beds times three hundred sixty-five days.

42 b. For facilities with land areas greater than the maximum allowable land area, divide

43 the acquisition cost of the land by the total acres, multiply by the maximum allowable land area,  
44 multiply by the return rate of twelve percent, divide by ninety-three percent of the facility's total  
45 available beds times three hundred sixty-five days.

46 (e) The maximum working capital rate will be twenty cents per day;

47 (4) If a provider does not provide the actual acquisition cost to determine a  
48 reimbursement rate under subparagraph a. of paragraph (a) of subdivision (3) of subsection 1 of  
49 this section, the sum of the building and building equipment rate, movable equipment rate, land  
50 rate, and working capital rate shall be set at a reimbursement rate of six dollars;

51 (5) For each state fiscal year a negotiated trend factor shall be applied to each facility's  
52 Title XIX per diem reimbursement rate. The trend factor shall be determined through  
53 negotiations between the department and the affected providers and is intended to hold the  
54 providers harmless against increase in cost. In no circumstances shall the negotiated trend factor  
55 to be applied to state funds exceed the health care finance administration market basket price  
56 index for that year. The provisions of this subdivision shall apply to fiscal year 1996 and  
57 thereafter.

58 2. The provisions of subdivisions (1), (2), (3), and (4) of subsection 1 of this section shall  
59 remain in effect until July 1, 1989, unless otherwise provided by law.

321.130. 1. A person, to be qualified to serve as a director, shall be a voter of the district  
2 at least two years [prior to his] **before such person's** election or appointment and be over the  
3 age of [twenty-five] **twenty-four** years; except as provided in subsections 2 and 3 of this section.  
4 Nominations and declarations of candidacy shall be filed at the headquarters of the fire protection  
5 district by paying a ten dollar filing fee and filing a statement under oath that such person  
6 possesses the required qualifications.

7 2. In any fire protection district located in more than one county one of which is a first  
8 class county without a charter form of government having a population of more than one hundred  
9 ninety-eight thousand and not adjoining any other first class county or located wholly within a  
10 first class county as described herein, a resident shall have been a resident of the district for more  
11 than one year to be qualified to serve as a director.

12 3. In any fire protection district located in a county of the third or fourth classification,  
13 a person to be qualified to serve as a director shall be over the age of [twenty-five] **twenty-four**  
14 years and shall be a voter of the county in which the district is located for more than two years  
15 prior to [his] **such person's** election or appointment, except that for the first board of directors  
16 in such district, a person need only be a voter of the county in which the district is located for one  
17 year [prior to his] **before such person's** election or appointment.

18 4. A person desiring to become a candidate for the first board of directors of the  
19 proposed district shall pay the sum of five dollars as a filing fee to the treasurer of the county and



20 shall file with the election authority a statement under oath that he possesses all of the  
21 qualifications set out in this chapter for a director of a fire protection district. Thereafter, such  
22 candidate shall have [his] **the candidate's** name placed on the ballot as a candidate for director.

321.190. Each member of the board may receive an attendance fee not to exceed one  
2 hundred dollars for attending each regularly called board meeting, or special meeting, but shall  
3 not be paid for attending more than two in any calendar month, except that in a county of the first  
4 class having a charter form of government, [he] **a member** shall not be paid for attending more  
5 than four in any calendar month. In addition, the chairman of the board of directors may receive  
6 fifty dollars for attending each regularly or specially called board meeting, but shall not be paid  
7 the additional fee for attending more than two meetings in any calendar month. **In addition to**  
8 **receiving fees for attending up to four meetings in any calendar month pursuant to this**  
9 **section, for fire protection districts located in a county of the first classification with a**  
10 **charter form of government, each member of any such fire protection district board may**  
11 **receive an additional attendance fee not to exceed one hundred dollars for attending each**  
12 **such meeting of the board. No board members shall be paid such additional fee for**  
13 **attending more than four such meetings in any calendar month.** Each member of the board  
14 shall be reimbursed for [his] **the member's** actual expenditures in the performance of [his] **the**  
15 duties on behalf of the district. The secretary and the treasurer, if members of the board of  
16 directors, may each receive such additional compensation for the performance of their respective  
17 duties as secretary and treasurer as the board shall deem reasonable and necessary, not to exceed  
18 one thousand dollars per year. The circuit court having jurisdiction over the district shall have  
19 power to remove directors or any of them for good cause shown upon a petition, notice and  
20 hearing.

321.703. 1. The notice of intention to circulate a recall petition shall be served  
2 personally, or by certified mail, on the board member sought to be recalled. A copy thereof shall  
3 be filed, along with an affidavit of the time and manner of service, with the election authority,  
4 as defined in chapter 115, RSMo. A separate notice shall be filed for each board member sought  
5 to be recalled and shall contain all of the following:

- 6 (1) The name of the board member sought to be recalled;
- 7 (2) A **brief** statement[, not exceeding two hundred words in length,] of the reasons for  
8 the proposed recall. **This statement must relate facts which constitute acts of misconduct,**  
9 **malfeasance, or nonfeasance by the board member in the exercise of official duties or**  
10 **which establish proof of a conviction for any felony or any class A or B misdemeanor;**
- 11 (3) The name(s) and [business or] residence address(es) of [at least one, and not more  
12 than five,] **all** proponent(s) of the recall, **each of whom shall be a registered voter in such**  
13 **district.**

14           2. Within seven days after the filing of the notice of intention, the board member may  
15 file with the election authority a statement, not exceeding two hundred words in length, [in] an  
16 answer to the statement of the proponents. If an answer is filed, the board member shall also  
17 serve a copy of it, personally or by certified mail, on one of the proponents named in the notice  
18 of intention.

19           3. The statement and answer are intended solely for the information of the voters. No  
20 insufficiency in form or substance thereof shall affect the validity of the election proceedings.

                  [190.044. 1. No taxpayer shall be required to pay property taxes for ground  
2 ambulance service to both an ambulance district and a fire protection district or two  
3 ambulance districts which operate a ground ambulance service, unless reaffirmed and  
4 authorized pursuant to this section. In the event that a taxpayer in a third class county  
5 is paying taxes to both entities to provide ground ambulance service, any taxpayer  
6 residing in the area subject to the double tax may file a petition with the county clerk  
7 in which the area, or greatest part thereof, is situated requesting that the double tax  
8 be eliminated and that the area only pay a tax to one entity.

9           2. Upon receipt of such petition, the county clerk shall determine the area  
10 taxed by two such entities and place the question before the voters of such area at the  
11 next state or municipal election. The petition shall request that the following  
12 question be submitted to the voters residing within the geographic limits of the area:

13           The ..... (description of area) is currently paying a tax to provide  
14 ambulance service to the ..... (name of entity created first) and the  
15 ..... (name of entity created second).

16           As a result, choose only one of the following districts to provide ambulance service  
17 and taxation:

18                   ..... (name of entity created first)

19                   ..... (name of entity created second).

20           3. The entity receiving the most votes shall be declared as the single taxing  
21 entity for the area in question. The taxpayers within the area shall thereafter only pay  
22 one tax to the single taxing entity following a three-year period, over which the tax  
23 rate levied and collected shall be decreased by one-third each year until such tax is  
24 no longer levied or collected by the entity not chosen to provide service.

25           4. All costs incurred by the county clerk as a result of this section, including  
26 election costs, shall be paid by the entity not chosen to provide service.

27           5. The boundaries and service area of the entities providing ambulance  
28 service will reflect the change as determined by the election.]

                  [197.300. Sections 197.300 to 197.366 shall be known as the "Missouri  
2 Certificate of Need Law".]

                  [197.305. As used in sections 197.300 to 197.366, the following terms mean:

2           (1) "Affected persons", the person proposing the development of a new  
3 institutional health service, the public to be served, and health care facilities within  
4 the service area in which the proposed new health care service is to be developed;

5           (2) "Agency", the certificate of need program of the Missouri department of

6 health;

7 (3) "Capital expenditure", an expenditure by or on behalf of a health care  
8 facility which, under generally accepted accounting principles, is not properly  
9 chargeable as an expense of operation and maintenance;

10 (4) "Certificate of need", a written certificate issued by the committee setting  
11 forth the committee's affirmative finding that a proposed project sufficiently satisfies  
12 the criteria prescribed for such projects by sections 197.300 to 197.366;

13 (5) "Develop", to undertake those activities which on their completion will  
14 result in the offering of a new institutional health service or the incurring of a  
15 financial obligation in relation to the offering of such a service;

16 (6) "Expenditure minimum" shall mean:

17 (a) For beds in existing or proposed health care facilities licensed pursuant  
18 to chapter 198, RSMo, and long-term care beds in a hospital as described in  
19 subdivision (3) of subsection 1 of section 198.012, RSMo, six hundred thousand  
20 dollars in the case of capital expenditures, or four hundred thousand dollars in the  
21 case of major medical equipment, provided, however, that prior to January 1, 2003,  
22 the expenditure minimum for beds in such a facility and long-term care beds in a  
23 hospital described in section 198.012, RSMo, shall be zero, subject to the provisions  
24 of subsection 7 of section 197.318;

25 (b) For beds or equipment in a long-term care hospital meeting the  
26 requirements described in 42 CFR, Section 412.23(e), the expenditure minimum shall  
27 be zero; and

28 (c) For health care facilities, new institutional health services or beds not  
29 described in paragraph (a) or (b) of this subdivision one million dollars in the case  
30 of capital expenditures, excluding major medical equipment, and one million dollars  
31 in the case of medical equipment;

32 (7) "Health care facilities", hospitals, health maintenance organizations,  
33 tuberculosis hospitals, psychiatric hospitals, intermediate care facilities, skilled  
34 nursing facilities, residential care facilities I and II, kidney disease treatment centers,  
35 including freestanding hemodialysis units, diagnostic imaging centers, radiation  
36 therapy centers and ambulatory surgical facilities, but excluding the private offices  
37 of physicians, dentists and other practitioners of the healing arts, and Christian  
38 Science sanatoriums, also known as Christian Science Nursing facilities listed and  
39 certified by the Commission for Accreditation of Christian Science Nursing  
40 Organization/Facilities, Inc., and facilities of not-for-profit corporations in existence  
41 on October 1, 1980, subject either to the provisions and regulations of Section 302  
42 of the Labor-Management Relations Act, 29 U.S.C. 186 or the Labor-Management  
43 Reporting and Disclosure Act, 29 U.S.C. 401-538, and any residential care facility  
44 I or residential care facility II operated by a religious organization qualified pursuant  
45 to Section 501(c)(3) of the federal Internal Revenue Code, as amended, which does  
46 not require the expenditure of public funds for purchase or operation, with a total  
47 licensed bed capacity of one hundred beds or fewer;

48 (8) "Health service area", a geographic region appropriate for the effective

49 planning and development of health services, determined on the basis of factors  
50 including population and the availability of resources, consisting of a population of  
51 not less than five hundred thousand or more than three million;

52 (9) "Major medical equipment", medical equipment used for the provision  
53 of medical and other health services;

54 (10) "New institutional health service":

55 (a) The development of a new health care facility costing in excess of the  
56 applicable expenditure minimum;

57 (b) The acquisition, including acquisition by lease, of any health care facility,  
58 or major medical equipment costing in excess of the expenditure minimum;

59 (c) Any capital expenditure by or on behalf of a health care facility in excess  
60 of the expenditure minimum;

61 (d) Predevelopment activities as defined in subdivision (13) hereof costing  
62 in excess of one hundred fifty thousand dollars;

63 (e) Any change in licensed bed capacity of a health care facility which  
64 increases the total number of beds by more than ten or more than ten percent of total  
65 bed capacity, whichever is less, over a two-year period;

66 (f) Health services, excluding home health services, which are offered in a  
67 health care facility and which were not offered on a regular basis in such health care  
68 facility within the twelve-month period prior to the time such services would be  
69 offered;

70 (g) A reallocation by an existing health care facility of licensed beds among  
71 major types of service or reallocation of licensed beds from one physical facility or  
72 site to another by more than ten beds or more than ten percent of total licensed bed  
73 capacity, whichever is less, over a two-year period;

74 (11) "Nonsubstantive projects", projects which do not involve the addition,  
75 replacement, modernization or conversion of beds or the provision of a new health  
76 service but which include a capital expenditure which exceeds the expenditure  
77 minimum and are due to an act of God or a normal consequence of maintaining  
78 health care services, facility or equipment;

79 (12) "Person", any individual, trust, estate, partnership, corporation,  
80 including associations and joint stock companies, state or political subdivision or  
81 instrumentality thereof, including a municipal corporation;

82 (13) "Predevelopment activities", expenditures for architectural designs,  
83 plans, working drawings and specifications, and any arrangement or commitment  
84 made for financing; but excluding submission of an application for a certificate of  
85 need.]

2 [197.310. 1. The "Missouri Health Facilities Review Committee" is hereby  
3 established. The agency shall provide clerical and administrative support to the  
4 committee. The committee may employ additional staff as it deems necessary.

5 2. The committee shall be composed of:

6 (1) Two members of the senate appointed by the president pro tem, who shall  
be from different political parties; and

7 (2) Two members of the house of representatives appointed by the speaker,  
8 who shall be from different political parties; and

9 (3) Five members appointed by the governor with the advice and consent of  
10 the senate, not more than three of whom shall be from the same political party.

11 3. No business of this committee shall be performed without a majority of  
12 the full body.

13 4. The members shall be appointed as soon as possible after September 28,  
14 1979. One of the senate members, one of the house members and three of the  
15 members appointed by the governor shall serve until January 1, 1981, and the  
16 remaining members shall serve until January 1, 1982. All subsequent members shall  
17 be appointed in the manner provided in subsection 2 of this section and shall serve  
18 terms of two years.

19 5. The committee shall elect a chairman at its first meeting which shall be  
20 called by the governor. The committee shall meet upon the call of the chairman or  
21 the governor.

22 6. The committee shall review and approve or disapprove all applications for  
23 a certificate of need made under sections 197.300 to 197.366. It shall issue  
24 reasonable rules and regulations governing the submission, review and disposition  
25 of applications.

26 7. Members of the committee shall serve without compensation but shall be  
27 reimbursed for necessary expenses incurred in the performance of their duties.

28 8. Notwithstanding the provisions of subsection 4 of section 610.025, RSMo,  
29 the proceedings and records of the facilities review committee shall be subject to the  
30 provisions of chapter 610, RSMo.]

[197.311. No member of the Missouri health facilities review committee may  
2 accept a political donation from any applicant for a license.]

[197.312. A certificate of need shall not be required for any institution  
2 previously owned and operated for or in behalf of a city not within a county which  
3 chooses to be licensed as a facility defined under subdivision (15) or (16) of section  
4 198.006, RSMo, for a facility of ninety beds or less that is owned or operated by a  
5 not-for-profit corporation which is exempt from federal income tax as an  
6 organization described in section 501(c)(3) of the Internal Revenue Code of 1986,  
7 which is controlled directly by a religious organization and which has received  
8 approval by the division of aging of plans for construction of such facility by August  
9 1, 1995, and is licensed by the division of aging by July 1, 1996, as a facility defined  
10 under subdivision (15) or (16) of section 198.006, RSMo, or for a facility, serving  
11 exclusively mentally ill, homeless persons, of sixteen beds or less that is owned or  
12 operated by a not-for-profit corporation which is exempt from federal income tax  
13 which is described in section 501(c)(3) of the Internal Revenue Code of 1986, which  
14 is controlled directly by a religious organization and which has received approval by  
15 the division of aging of plans for construction of such facility by May 1, 1996, and  
16 is licensed by the division of aging by July 1, 1996, as a facility defined under  
17 subdivision (15) or (16) of section 198.006, RSMo, or a residential care facility II

located in a city not within a county operated by a not for profit corporation which is exempt from federal income tax which is described in section 501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which is licensed for one hundred beds or less on or before August 28, 1997.]

[197.314. 1. The provisions of sections 197.300 to 197.366 shall not apply to any sixty-bed stand-alone facility designed and operated exclusively for the care of residents with Alzheimer's disease or dementia and located in a tax increment financing district established prior to 1990 within any county of the first classification with a charter form of government containing a city with a population of over three hundred fifty thousand and which district also has within its boundaries a skilled nursing facility.

2. The provisions of sections 197.300 to 197.366 shall not apply, as hereinafter stated, to a skilled nursing facility that is owned or operated by a not-for-profit corporation which was created by a special act of the Missouri general assembly, is exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, is owned by a religious organization and is to be operated as part of a continuing care retirement community offering independent living, residential care and skilled care. This exemption shall authorize no more than twenty additional skilled nursing beds at each of two facilities which do not have any skilled nursing beds as of January 1, 1999.]

[197.315. 1. Any person who proposes to develop or offer a new institutional health service within the state must obtain a certificate of need from the committee prior to the time such services are offered.

2. Only those new institutional health services which are found by the committee to be needed shall be granted a certificate of need. Only those new institutional health services which are granted certificates of need shall be offered or developed within the state. No expenditures for new institutional health services in excess of the applicable expenditure minimum shall be made by any person unless a certificate of need has been granted.

3. After October 1, 1980, no state agency charged by statute to license or certify health care facilities shall issue a license to or certify any such facility, or distinct part of such facility, that is developed without obtaining a certificate of need.

4. If any person proposes to develop any new institutional health care service without a certificate of need as required by sections 197.300 to 197.366, the committee shall notify the attorney general, and he shall apply for an injunction or other appropriate legal action in any court of this state against that person.

5. After October 1, 1980, no agency of state government may appropriate or grant funds to or make payment of any funds to any person or health care facility which has not first obtained every certificate of need required pursuant to sections 197.300 to 197.366.

6. A certificate of need shall be issued only for the premises and persons named in the application and is not transferable except by consent of the committee.

23           7. Project cost increases, due to changes in the project application as  
24 approved or due to project change orders, exceeding the initial estimate by more than  
25 ten percent shall not be incurred without consent of the committee.

26           8. Periodic reports to the committee shall be required of any applicant who  
27 has been granted a certificate of need until the project has been completed. The  
28 committee may order the forfeiture of the certificate of need upon failure of the  
29 applicant to file any such report.

30           9. A certificate of need shall be subject to forfeiture for failure to incur a  
31 capital expenditure on any approved project within six months after the date of the  
32 order. The applicant may request an extension from the committee of not more than  
33 six additional months based upon substantial expenditure made.

34           10. Each application for a certificate of need must be accompanied by an  
35 application fee. The time of filing commences with the receipt of the application and  
36 the application fee. The application fee is one thousand dollars, or one-tenth of one  
37 percent of the total cost of the proposed project, whichever is greater. All application  
38 fees shall be deposited in the state treasury. Because of the loss of federal funds, the  
39 general assembly will appropriate funds to the Missouri health facilities review  
40 committee.

41           11. In determining whether a certificate of need should be granted, no  
42 consideration shall be given to the facilities or equipment of any other health care  
43 facility located more than a fifteen-mile radius from the applying facility.

44           12. When a nursing facility shifts from a skilled to an intermediate level of  
45 nursing care, it may return to the higher level of care if it meets the licensure  
46 requirements, without obtaining a certificate of need.

47           13. In no event shall a certificate of need be denied because the applicant  
48 refuses to provide abortion services or information.

49           14. A certificate of need shall not be required for the transfer of ownership  
50 of an existing and operational health facility in its entirety.

51           15. A certificate of need may be granted to a facility for an expansion, an  
52 addition of services, a new institutional service, or for a new hospital facility which  
53 provides for something less than that which was sought in the application.

54           16. The provisions of this section shall not apply to facilities operated by the  
55 state, and appropriation of funds to such facilities by the general assembly shall be  
56 deemed in compliance with this section, and such facilities shall be deemed to have  
57 received an appropriate certificate of need without payment of any fee or charge.

58           17. Notwithstanding other provisions of this section, a certificate of need  
59 may be issued after July 1, 1983, for an intermediate care facility operated  
60 exclusively for the mentally retarded.

61           18. To assure the safe, appropriate, and cost-effective transfer of new medical  
62 technology throughout the state, a certificate of need shall not be required for the  
63 purchase and operation of research equipment that is to be used in a clinical trial that  
64 has received written approval from a duly constituted institutional review board of  
65 an accredited school of medicine or osteopathy located in Missouri to establish its

66 safety and efficacy and does not increase the bed complement of the institution in  
67 which the equipment is to be located. After the clinical trial has been completed, a  
68 certificate of need must be obtained for continued use in such facility.]

[197.316. 1. The provisions of subsection 10 of section 197.315 and sections  
2 197.317 and 197.318 shall not apply to facilities which are licensed pursuant to the  
3 provisions of chapter 198, RSMo, which are designed and operated exclusively for  
4 the care and treatment of persons with acquired human immunodeficiency syndrome,  
5 AIDS.

6 2. If a facility is granted a certificate of need and is found to be exempt from  
7 the provisions of subsection 10 of section 197.315 and sections 197.317 and 197.318  
8 pursuant to the provisions of subsection 1 of this section, then only AIDS patients  
9 shall be residents of such facility and no others.

10 3. Any facility that violates the provisions of subsection 2 of this section  
11 shall be liable for a fine of one hundred dollars per resident per day for each such  
12 violation.

13 4. The attorney general shall, upon request of the department of health, bring  
14 an action in a circuit court of competent jurisdiction for violation of this section.]

[197.317. 1. After July 1, 1983, no certificate of need shall be issued for the  
2 following:

3 (1) Additional residential care facility I, residential care facility II,  
4 intermediate care facility or skilled nursing facility beds above the number then  
5 licensed by this state;

6 (2) Beds in a licensed hospital to be reallocated on a temporary or permanent  
7 basis to nursing care or beds in a long-term care hospital meeting the requirements  
8 described in 42 CFR, Section 412.23(e), excepting those which are not subject to a  
9 certificate of need pursuant to paragraphs (e) and (g) of subdivision (10) of section  
10 197.305; nor

11 (3) The reallocation of intermediate care facility or skilled nursing facility  
12 beds of existing licensed beds by transfer or sale of licensed beds between a hospital  
13 licensed pursuant to this chapter or a nursing care facility licensed pursuant to chapter  
14 198, RSMo; except for beds in counties in which there is no existing nursing care  
15 facility. No certificate of need shall be issued for the reallocation of existing  
16 residential care facility I or II, or intermediate care facilities operated exclusively for  
17 the mentally retarded to intermediate care or skilled nursing facilities or beds.  
18 However, after January 1, 2003, nothing in this section shall prohibit the Missouri  
19 health facilities review committee from issuing a certificate of need for additional  
20 beds in existing health care facilities or for new beds in new health care facilities or  
21 for the reallocation of licensed beds, provided that no construction shall begin prior  
22 to January 1, 2004. The provisions of subsections 16 and 17 of section 197.315 shall  
23 apply to the provisions of this section.

24 2. The health facilities review committee shall utilize demographic data from  
25 the office of social and economic data analysis, or its successor organization, at the  
26 University of Missouri as their source of information in considering applications for



27 new institutional long-term care facilities.]

2 [197.318. 1. The provisions of section 197.317 shall not apply to a  
3 residential care facility I, residential care facility II, intermediate care facility or  
4 skilled nursing facility only where the department of social services has first  
5 determined that there presently exists a need for additional beds of that classification  
6 because the average occupancy of all licensed and available residential care facility  
7 I, residential care facility II, intermediate care facility and skilled nursing facility beds  
8 exceeds ninety percent for at least four consecutive calendar quarters, in a particular  
9 county, and within a fifteen-mile radius of the proposed facility, and the facility  
10 otherwise appears to qualify for a certificate of need. The department's certification  
11 that there is no need for additional beds shall serve as the final determination and  
12 decision of the committee. In determining ninety percent occupancy, residential care  
13 facility I and II shall be one separate classification and intermediate care and skilled  
14 nursing facilities are another separate classification.

15 2. The Missouri health facilities review committee may, for any facility  
16 certified to it by the department, consider the predominant ethnic or religious  
17 composition of the residents to be served by that facility in considering whether to  
18 grant a certificate of need.

19 3. There shall be no expenditure minimum for facilities, beds, or services  
20 referred to in subdivisions (1), (2) and (3) of section 197.317. The provisions of this  
21 subsection shall expire January 1, 2003.

22 4. As used in this section, the term "licensed and available" means beds  
23 which are actually in place and for which a license has been issued.

24 5. The provisions of section 197.317 shall not apply to any facility where at  
25 least ninety-five percent of the patients require diets meeting the dietary standards  
26 defined by section 196.165, RSMo.

27 6. The committee shall review all letters of intent and applications for  
28 long-term care hospital beds meeting the requirements described in 42 CFR, Section  
29 412.23(e) under its criteria and standards for long-term care beds.

30 7. Sections 197.300 to 197.366 shall not be construed to apply to litigation  
31 pending in state court on or before April 1, 1996, in which the Missouri health  
32 facilities review committee is a defendant in an action concerning the application of  
33 sections 197.300 to 197.366 to long-term care hospital beds meeting the requirements  
34 described in 42 CFR, Section 412.23(e).

35 8. Notwithstanding any other provision of this chapter to the contrary:

36 (1) A facility licensed pursuant to chapter 198, RSMo, may increase its  
37 licensed bed capacity by:

38 (a) Submitting a letter of intent to expand to the division of aging and the  
39 health facilities review committee;

40 (b) Certification from the division of aging that the facility:

41 a. Has no patient care class I deficiencies within the last eighteen months;

42 and

b. Has maintained a ninety-percent average occupancy rate for the previous

43 six quarters;

44 (c) Has made an effort to purchase beds for eighteen months following the  
45 date the letter of intent to expand is submitted pursuant to paragraph (a) of this  
46 subdivision. For purposes of this paragraph, an "effort to purchase" means a copy  
47 certified by the offeror as an offer to purchase beds from another licensed facility in  
48 the same licensure category; and

49 (d) If an agreement is reached by the selling and purchasing entities, the  
50 health facilities review committee shall issue a certificate of need for the expansion  
51 of the purchaser facility upon surrender of the seller's license; or

52 (e) If no agreement is reached by the selling and purchasing entities, the  
53 health facilities review committee shall permit an expansion for:

54 a. A facility with more than forty beds may expand its licensed bed capacity  
55 within the same licensure category by twenty-five percent or thirty beds, whichever  
56 is greater, if that same licensure category in such facility has experienced an average  
57 occupancy of ninety-three percent or greater over the previous six quarters;

58 b. A facility with fewer than forty beds may expand its licensed bed capacity  
59 within the same licensure category by twenty-five percent or ten beds, whichever is  
60 greater, if that same licensure category in such facility has experienced an average  
61 occupancy of ninety-two percent or greater over the previous six quarters;

62 c. A facility adding beds pursuant to subparagraphs a. or b. of this paragraph  
63 shall not expand by more than fifty percent of its then licensed bed capacity in the  
64 qualifying licensure category;

65 (2) Any beds sold shall, for five years from the date of relicensure by the  
66 purchaser, remain unlicensed and unused for any long-term care service in the selling  
67 facility, whether they do or do not require a license;

68 (3) The beds purchased shall, for two years from the date of purchase, remain  
69 in the bed inventory attributed to the selling facility and be considered by the  
70 department of social services as licensed and available for purposes of this section;

71 (4) Any residential care facility licensed pursuant to chapter 198, RSMo, may  
72 relocate any portion of such facility's current licensed beds to any other facility to be  
73 licensed within the same licensure category if both facilities are under the same  
74 licensure ownership or control, and are located within six miles of each other;

75 (5) A facility licensed pursuant to chapter 198, RSMo, may transfer or sell  
76 individual long-term care licensed beds to facilities qualifying pursuant to paragraphs  
77 (a) and (b) of subdivision (1) of this subsection. Any facility which transfers or sells  
78 licensed beds shall not expand its licensed bed capacity in that licensure category for  
79 a period of five years from the date the licensure is relinquished.

80 9. Any existing licensed and operating health care facility offering long-term  
81 care services may replace one-half of its licensed beds at the same site or a site not  
82 more than thirty miles from its current location if, for at least the most recent four  
83 consecutive calendar quarters, the facility operates only fifty percent of its then  
84 licensed capacity with every resident residing in a private room. In such case:

85 (1) The facility shall report to the division of aging vacant beds as

86 unavailable for occupancy for at least the most recent four consecutive calendar  
87 quarters;

88 (2) The replacement beds shall be built to private room specifications and  
89 only used for single occupancy; and

90 (3) The existing facility and proposed facility shall have the same owner or  
91 owners, regardless of corporate or business structure, and such owner or owners shall  
92 stipulate in writing that the existing facility beds to be replaced will not later be used  
93 to provide long-term care services. If the facility is being operated under a lease,  
94 both the lessee and the owner of the existing facility shall stipulate the same in  
95 writing.

96 10. Nothing in this section shall prohibit a health care facility licensed  
97 pursuant to chapter 198, RSMo, from being replaced in its entirety within fifteen  
98 miles of its existing site so long as the existing facility and proposed or replacement  
99 facility have the same owner or owners regardless of corporate or business structure  
100 and the health care facility being replaced remains unlicensed and unused for any  
101 long-term care services whether they do or do not require a license from the date of  
102 licensure of the replacement facility.]

2 [197.320. The committee shall have the power to promulgate reasonable  
3 rules, regulations, criteria and standards in conformity with this section and chapter  
4 536, RSMo, to meet the objectives of sections 197.300 to 197.366 including the  
5 power to establish criteria and standards to review new types of equipment or service.  
6 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
7 is created under the authority delegated in sections 197.300 to 197.366 shall become  
8 effective only if it complies with and is subject to all of the provisions of chapter 536,  
9 RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority  
10 delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing  
11 in this section shall be interpreted to repeal or affect the validity of any rule filed or  
12 adopted prior to August 28, 1999, if it fully complied with all applicable provisions  
13 of law. This section and chapter 536, RSMo, are nonseverable and if any of the  
14 powers vested with the general assembly pursuant to chapter 536, RSMo, to review,  
15 to delay the effective date or to disapprove and annul a rule are subsequently held  
16 unconstitutional, then the grant of rulemaking authority and any rule proposed or  
adopted after August 28, 1999, shall be invalid and void.]

2 [197.325. Any person who proposes to develop or offer a new institutional  
3 health service shall submit a letter of intent to the committee at least thirty days prior  
to the filing of the application.]

2 [197.326. 1. Any person who is paid either as part of his normal employment  
3 or as a lobbyist to support or oppose any project before the health facilities review  
4 committee shall register as a lobbyist pursuant to chapter 105, RSMo, and shall also  
5 register with the staff of the health facilities review committee for every project in  
6 which such person has an interest and indicate whether such person supports or  
7 opposes the named project. The registration shall also include the names and  
addresses of any person, firm, corporation or association that the person registering

8 represents in relation to the named project. Any person violating the provisions of  
9 this subsection shall be subject to the penalties specified in section 105.478, RSMo.

10 2. A member of the general assembly who also serves as a member of the  
11 health facilities review committee is prohibited from soliciting or accepting campaign  
12 contributions from any applicant or person speaking for an applicant or any opponent  
13 to any application or persons speaking for any opponent while such application is  
14 pending before the health facilities review committee.

15 3. Any person regulated by chapter 197 or 198, RSMo, and any officer,  
16 attorney, agent and employee thereof, shall not offer to any committee member or to  
17 any person employed as staff to the committee, any office, appointment or position,  
18 or any present, gift, entertainment or gratuity of any kind or any campaign  
19 contribution while such application is pending before the health facilities review  
20 committee. Any person guilty of knowingly violating the provisions of this section  
21 shall be punished as follows: For the first offense, such person is guilty of a class B  
22 misdemeanor; and for the second and subsequent offenses, such person is guilty of  
23 a class D felony.]

2 [197.327. 1. If a facility is granted a certificate of need pursuant to sections  
3 197.300 to 197.365 based on an application stating a need for additional Medicaid  
4 beds, such beds shall be used for Medicaid patients and no other.

5 2. Any person who violates the provisions of subsection 1 of this section  
6 shall be liable to the state for civil penalties of one hundred dollars for every day of  
7 such violation. Each nonMedicaid patient placed in a Medicaid bed shall constitute  
8 a separate violation.

9 3. The attorney general shall, upon the request of the department, bring an  
10 action in a circuit court of competent jurisdiction to recover the civil penalty. The  
11 department may bring such an action itself. The civil action may be brought in the  
12 circuit court of Cole County or, at the option of the director, in another county which  
has venue of an action against the person under other provisions of law.]

[197.330. 1. The committee shall:

2 (1) Notify the applicant within fifteen days of the date of filing of an  
3 application as to the completeness of such application;

4 (2) Provide written notification to affected persons located within this state  
5 at the beginning of a review. This notification may be given through publication of  
6 the review schedule in all newspapers of general circulation in the area to be served;

7 (3) Hold public hearings on all applications when a request in writing is filed  
8 by any affected person within thirty days from the date of publication of the  
9 notification of review;

10 (4) Within one hundred days of the filing of any application for a certificate  
11 of need, issue in writing its findings of fact, conclusions of law, and its approval or  
12 denial of the certificate of need; provided, that the committee may grant an extension  
13 of not more than thirty days on its own initiative or upon the written request of any  
14 affected person;

15 (5) Cause to be served upon the applicant, the respective health system

agency, and any affected person who has filed his prior request in writing, a copy of the aforesaid findings, conclusions and decisions;

(6) Consider the needs and circumstances of institutions providing training programs for health personnel;

(7) Provide for the availability, based on demonstrated need, of both medical and osteopathic facilities and services to protect the freedom of patient choice; and

(8) Establish by regulation procedures to review, or grant a waiver from review, nonsubstantive projects.

The term "filed" or "filing" as used in this section shall mean delivery to the staff of the health facilities review committee the document or documents the applicant believes constitute an application.

2. Failure by the committee to issue a written decision on an application for a certificate of need within the time required by this section shall constitute approval of and final administrative action on the application, and is subject to appeal pursuant to section 197.335 only on the question of approval by operation of law.]

[197.335. Within thirty days of the decision of the committee, the applicant may file an appeal to be heard de novo by the administrative hearing commissioner, the circuit court of Cole County or the circuit court in the county within which such health care service or facility is proposed to be developed.]

[197.340. Any health facility providing a health service must notify the committee of any discontinuance of any previously provided health care service, a decrease in the number of licensed beds by ten percent or more, or the change in licensure category for any such facility.]

[197.345. Any health facility with a project for facilities or services for which a binding construction or purchase contract has been executed prior to October 1, 1980, or health care facility which has commenced operations prior to October 1, 1980, shall be deemed to have received a certificate of need, except that such certificate of need shall be subject to forfeiture under the provisions of subsections 8 and 9 of section 197.315.]

[197.355. The legislature may not appropriate any money for capital expenditures for health care facilities until a certificate of need has been issued for such expenditures.]

[197.357. For the purposes of reimbursement under section 208.152, RSMo, project costs for new institutional health services in excess of ten percent of the initial project estimate whether or not approval was obtained under subsection 7 of section 197.315 shall not be eligible for reimbursement for the first three years that a facility receives payment for services provided under section 208.152, RSMo. The initial estimate shall be that amount for which the original certificate of need was obtained or, in the case of facilities for which a binding construction or purchase contract was executed prior to October 1, 1980, the amount of that contract. Reimbursement for these excess costs after the first three years shall not be made until a certificate of need has been granted for the excess project costs. The

11 provisions of this section shall apply only to facilities which file an application for  
12 a certificate of need or make application for cost-override review of their original  
13 application or waiver after August 13, 1982.]

2 [197.366. The provisions of subdivision (8) of section 197.305 to the  
3 contrary notwithstanding, after December 31, 2001, the term "health care facilities"  
4 in sections 197.300 to 197.366 shall mean:

5 (1) Facilities licensed under chapter 198, RSMo;

6 (2) Long-term care beds in a hospital as described in subdivision (3) of  
7 subsection 1 of section 198.012, RSMo;

8 (3) Long-term care hospitals or beds in a long-term care hospital meeting the  
9 requirements described in 42 CFR, section 412.23(e); and

10 (4) Construction of a new hospital as defined in chapter 197.]

11 [197.367. Upon application for renewal by any residential care facility I or  
12 II which on the effective date of this act has been licensed for more than five years,  
13 is licensed for more than fifty beds and fails to maintain for any calendar year its  
14 occupancy level above thirty percent of its then licensed beds, the division of aging  
15 shall license only fifty beds for such facility.]